

AMENDED IN SENATE JUNE 6, 2011

AMENDED IN ASSEMBLY MAY 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1424

Introduced by Committee on Revenue and Taxation (Assembly Members Perea (Chair), Beall, Charles Calderon, Cedillo, Fuentes, and Gordon)

March 22, 2011

~~An act to amend Sections 1793.2 and 1793.25 of the Civil Code, and to amend Sections 6055, 6203.5, 6248, 7096, 7101, 8351, and 30474 of, and to add Sections 7157, 8407, 30483, and 60709 to, the Revenue and Taxation Code, relating to taxation. An act to amend Sections 31, 476, and 7145.5 of, and to add Section 494.5 to, the Business and Professions Code, to add Section 12419 to the Government Code, to add Section 10295.4 to the Public Contract Code, and to amend Section 19195 of, to add Sections 19265, 19377.5, and 19571 to, and to add Article 7 (commencing with Section 19291) to Chapter 5 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, relating to taxation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1424, as amended, Committee on Revenue and Taxation. ~~Tax administration: collection: lenders: vessels: vehicles. Franchise Tax Board: delinquent tax debt.~~

The Personal Income Tax Law and the Corporation Tax Law impose taxes on, or measured by, income. Existing law requires the Franchise Tax Board to make available as a matter of public record each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, and requires the list to include specified information with respect to

each delinquency. Existing law requires every board, as defined, and the Department of Insurance, upon request of the Franchise Tax Board, to furnish to the Franchise Tax Board certain information with respect to every licensee.

This bill would require the Franchise Tax Board to make available the list of the 250 largest tax delinquencies described above at least twice each calendar year. This bill would also require the Franchise Tax Board to include additional information on the list with respect to each delinquency, including the type, status, and licence number of any occupational or professional license held by the person or persons liable for payment of the tax and the names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation. This bill would require a person whose delinquency appeared on the list and whose name has been removed, as provided, to comply with the terms of the arranged resolution, and would authorize the Franchise Tax Board, if the person fails to comply with the terms of the arranged resolution, to add the person's name to the list without providing prior written notice, as provided.

This bill would permit a state governmental licensing entity, that issues professional or occupational licenses, certificates, registrations, or permits, to suspend, revoke, or refuse to issue a license if the licensee's name is included on the list of the 250 largest tax delinquencies described above. This bill would also require those licensing entities to provide to the Franchise Tax Board the name and social security number or federal taxpayer identification number of each individual licensee of that entity, and would require each application for a new license or renewal of a license to indicate on the application that the law allows the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay his or her state income tax obligation and that his or her license may be suspended if the state income tax obligation is not paid. The bill would require the Franchise Tax Board, if an individual licensee appears on the list of the 250 largest tax delinquencies described above, and the specified licensing entity has not made a decision regarding suspension or revocation of the license, to send a notice of suspension to the licensee. The bill would provide that the license of a licensee who fails to satisfy the unpaid taxes by a certain date shall be automatically suspended, except as specified, and would require the Franchise Tax Board to mail a notice of suspension to the applicable state

governmental licensing entity and to the licensee, and would provide that the suspension be canceled upon compliance with the tax obligation. The bill would require the Franchise Tax Board to meet certain requirements and would make related changes.

The bill would provide that the release or other use of information received by a state governmental licensing entity pursuant to these provisions, except as authorized, is punishable as a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

This bill would also prohibit a state agency from entering into any contract for the acquisition of goods or services with a contractor whose name appears on the list of the 250 largest tax delinquencies described above.

Existing law authorizes the Franchise Tax Board to collect specified amounts for the Department of Industrial Relations and specified amounts imposed by a court pursuant to specified procedures.

This bill would authorize the Franchise Tax Board to enter into an agreement to collect any delinquent tax debt due to the Internal Revenue Service or any other state imposing an income tax or tax measured by income pursuant to specified procedures, provided that the Internal Revenue Service or that state has entered into an agreement to collect delinquent tax debts due to the Franchise Tax Board, and the agreements do not cause the net displacement of civil service employees, as specified. This bill would require the Controller, upon execution of a reciprocal agreement between the Franchise Tax Board and any other state imposing an income tax or tax measured by income, to offset any delinquent tax debt due to that other state from a person or entity, against any refund under the Personal Income Tax Law or the Corporation Tax Law owed to that person or entity, as provided.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires the State Board of Equalization to reimburse a manufacturer for an amount equal to the sales tax which the manufacturer pays to or for the buyer when providing a replacement vehicle or making restitution pursuant to the Song-Beverly Consumer Warranty Act, subject to satisfactory proof, as specified.~~

~~This bill also would also provide that the board is to reimburse a manufacturer for an amount equal to the use tax which the manufacturer pays to or for the buyer or lessee when providing a replacement vehicle or making restitution pursuant to the Song-Beverly Consumer Warranty Act, subject to satisfactory proof, as specified.~~

~~This bill would make other conforming changes, and would also state that the above provisions of the bill are declaratory of existing law.~~

~~The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, measured by sales price.~~

~~The Sales and Use Tax Law also allows a retailer to be relieved from liability for sales or use tax when the measure of the tax is represented by accounts that have been found to be worthless and charged off for income tax purposes. Retailers who sell their accounts receivables, or lenders who purchase them, are entitled to a refund or a deduction for the taxes paid to the board on that portion of the accounts receivable that is written off as worthless. In these circumstances, existing law requires the retailer and the lender, prior to claiming any deduction or refund, to file an election form with the board, signed by both parties, designating which party is entitled to claim the deduction or refund.~~

~~This bill would remove the requirement that the election form be filed with the board and would instead require the election form to be retained by the retailer and the lender.~~

~~Under the Sales and Use Tax Law, there is a presumption that a vehicle, vessel, or aircraft shipped or brought into this state within 12 months from the date of its purchase was acquired for storage, use, or other consumption in this state and is subject to the use tax if specified conditions are met. Under existing law, this presumption does not apply if a vessel was brought into the state exclusively for the purpose of repair, retrofit, or modification performed in a permitted facility that is licensed to do business in the county in which it is located.~~

~~This bill would, for purposes of the exclusion from this presumption, also allow the repair, retrofit, or modification to be performed in a permitted facility that is licensed to do business in the city or city and county in which it is located, if the city or city and county so requires, or performed in permitted facility in a county in which it is not required to be licensed.~~

~~The Bradley-Burns Uniform Local Sales and Use Tax authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts to impose transactions and use taxes in accordance with Transactions and Use Tax Law are incorporated into these laws. Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.~~

~~This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.~~

~~Existing law requires the State Board of Equalization to administer the Sales and Use Tax Law and authorizes the board to undertake collection action on delinquent accounts, including issuing a levy or notice to withhold. A taxpayer may file a claim with the Board of Equalization for reimbursement of bank charges or any other reasonable 3rd-party check charge fees incurred by the taxpayer as a direct result of an erroneous levy or notice to withhold by the board.~~

~~This bill would additionally authorize a taxpayer to file a reimbursement claim with the board for bank charges and other reasonable 3rd-party check charge fees incurred as a direct result of an erroneous processing action or erroneous collection action by the board.~~

~~Existing law authorizes the State Board of Equalization and the Controller’s office to use specified collection tools with respect to delinquent accounts and liabilities.~~

~~This bill would authorize the board and the Controller’s office to collect restitution orders under specified laws, and a specified penalty, awarded to the state by a court in criminal proceedings, in the same manner as tax liabilities.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 31 of the Business and Professions Code
- 2 is amended to read:
- 3 31. (a) As used in this section, “board” means any entity listed
- 4 in Section 101, the entities referred to in Sections 1000 and 3600,
- 5 the State Bar, the Department of Real Estate, and any other state

1 agency that issues a license, certificate, or registration authorizing
2 a person to engage in a business or profession.

3 (b) Each applicant for the issuance or renewal of a license,
4 certificate, registration, or other means to engage in a business or
5 profession regulated by a board who is not in compliance with a
6 judgment or order for support shall be subject to Section 17520 of
7 the Family Code.

8 (c) “Compliance with a judgment or order for support” has the
9 meaning given in paragraph (4) of subdivision (a) of Section 17520
10 of the Family Code.

11 (d) *Each licensee whose name appears on a list of the 250*
12 *largest tax delinquencies pursuant to Section 19195 of the Revenue*
13 *and Taxation Code shall be subject to Section 494.5 or 7145.5 or*
14 *to Section 19265 of the Revenue and Taxation Code.*

15 (e) *Each application for a new license or renewal of a license*
16 *shall indicate on the application that the law allows the Franchise*
17 *Tax Board to share taxpayer information with a board and requires*
18 *the licensee to pay his or her state income tax obligation and that*
19 *his or her license may be suspended if the state income tax*
20 *obligation is not paid.*

21 *SEC. 2. Section 476 of the Business and Professions Code is*
22 *amended to read:*

23 476. ~~Nothing~~ *(a) Except as provided in subdivision (b), nothing*
24 *in this division shall apply to the licensure or registration of persons*
25 *pursuant to Chapter 4 (commencing with Section 6000) of Division*
26 *3, or pursuant to Division 9 (commencing with Section 23000) or*
27 *pursuant to Chapter 5 (commencing with Section 19800) of*
28 *Division 8.*

29 (b) *Section 494.5 shall apply to the licensure of persons*
30 *authorized to practice law pursuant to Chapter 4 (commencing*
31 *with Section 6000) of Division 3, and the licensure or registration*
32 *of persons pursuant to Chapter 5 (commencing with Section 19800)*
33 *of Division 8 or pursuant to Division 9 (commencing with Section*
34 *23000).*

35 *SEC. 3. Section 494.5 is added to the Business and Professions*
36 *Code, to read:*

37 494.5. (a) *A state governmental licensing entity may refuse to*
38 *issue, reinstate, reactivate, or renew a license or may suspend a*
39 *license if a licensee’s name is included on a certified list.*

1 (1) *Until the liabilities covered by this section are satisfied, the*
2 *qualifying person and any other personnel of record named on a*
3 *license who have been suspended under this section shall be*
4 *prohibited from serving in any capacity that is subject to licensure,*
5 *but shall be permitted to act in the capacity of a nonsupervising*
6 *bona fide employee.*

7 (2) *The license of any other renewable licensed entity with any*
8 *of the same personnel of record who have been assessed an*
9 *outstanding liability covered by this section shall be suspended*
10 *until the liability has been satisfied or until the same personnel of*
11 *record disassociate themselves from the renewable licensed entity.*

12 (b) *For purposes of this section:*

13 (1) *“Certified list” means a list provided by the Franchise Tax*
14 *Board of persons whose names appear on a list of the 250 largest*
15 *tax delinquencies pursuant to Section 19195 of the Revenue and*
16 *Taxation Code.*

17 (2) *“License” includes a certificate, registration, or any other*
18 *authorization to engage in a profession or occupation issued by*
19 *a state governmental licensing entity. “License” includes a driver’s*
20 *license issued pursuant to Chapter 1 (commencing with Section*
21 *12500) of Division 6 of the Vehicle Code.*

22 (3) *“Licensee” means an individual authorized by a license to*
23 *drive a motor vehicle or authorized by a license, certificate,*
24 *registration, or other authorization to engage in a profession or*
25 *occupation issued by a state governmental licensing entity.*

26 (4) (A) *“State governmental licensing entity” means any entity*
27 *listed in Section 101, 1000, or 19420, the office of the Attorney*
28 *General, the Department of Insurance, the Department of Motor*
29 *Vehicles, the State Bar of California, the Department of Real*
30 *Estate, and any other state agency, board, or commission that*
31 *issues a license, certificate, or registration authorizing an*
32 *individual to engage in a profession or occupation, including any*
33 *certificate, business or occupational license, or permit or license*
34 *issued by the Department of Motor Vehicles or the Department of*
35 *the California Highway Patrol.*

36 (B) *“State governmental licensing entity” shall not include any*
37 *entity described in subparagraph (A) that has elected to decline*
38 *to exercise the authority provided by this section to suspend or*
39 *refuse to issue, reinstate, reactivate, or renew the license of a*
40 *licensee for failure to pay the taxes described in subdivision (a).*

1 *An election under this subparagraph shall not be valid unless*
2 *notification of that election has been provided to the Franchise*
3 *Tax Board at the time and in the manner prescribed by the*
4 *Franchise Tax Board.*

5 *(c) The Franchise Tax Board shall submit a certified list to state*
6 *governmental licensing entities.*

7 *(d) Notwithstanding any other law, all state governmental*
8 *licensing entities shall collect the social security number or the*
9 *federal taxpayer identification number from all applicants for the*
10 *purposes of matching the names of the certified list provided by*
11 *the Franchise Tax Board to applicants and licensees.*

12 *(e) (1) Each state governmental licensing entity shall determine*
13 *whether an applicant or licensee is on the most recent certified*
14 *list provided by the Franchise Tax Board. The state governmental*
15 *licensing entity shall have the authority to withhold issuance or*
16 *renewal of the license of any applicant on the list or to suspend*
17 *the license of any licensee on the list.*

18 *(2) If an applicant or licensee is on a certified list, the state*
19 *governmental licensing entity shall immediately provide a*
20 *preliminary notice to the applicant or licensee of the entity's intent*
21 *to suspend or withhold issuance or renewal of the license. The*
22 *preliminary notice shall be delivered personally or by mail to the*
23 *applicant's or licensee's last known mailing address on file with*
24 *the state governmental licensing entity within 30 days of receipt*
25 *of the certified list. Service by mail shall be completed in*
26 *accordance with Section 1013 of the Code of Civil Procedure.*

27 *(A) The state governmental licensing entity shall issue a*
28 *temporary license valid for a period of 90 days to any applicant*
29 *whose name is on a certified list if the applicant is otherwise*
30 *eligible for a license.*

31 *(B) The 90-day time period for a temporary license shall not*
32 *be extended. Only one temporary license shall be issued during a*
33 *regular license term and the term of the temporary license shall*
34 *coincide with the first 90 days of the regular license term. A license*
35 *for the full term or the remainder of the license term may be issued*
36 *or renewed only upon compliance with this section.*

37 *(C) In the event that a license is suspended or an application*
38 *for a license or the renewal of a license is denied pursuant to this*
39 *section, any funds paid by the applicant or licensee shall not be*
40 *refunded by the state governmental licensing entity.*

1 (f) A state governmental licensing entity shall make a final
2 determination to refuse to issue or to suspend a license pursuant
3 to this section no sooner than 30 days and no later than 90 days
4 of the mailing of the preliminary notice described in paragraph
5 (2) of subdivision (e). The procedures in the administrative
6 adjudication provisions of the Administrative Procedure Act
7 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
8 (commencing with Section 11500) of Part 1 of Division 3 of Title
9 2 of the Government Code) shall not apply to the revocation or
10 suspension of a license pursuant to this section.

11 (g) Notices shall be developed by each state governmental
12 licensing entity. The notice shall include the address and telephone
13 number of the Franchise Tax Board, and shall emphasize the
14 necessity of obtaining a release from the Franchise Tax Board as
15 a condition for the issuance, renewal, or continued valid status of
16 a license or licenses.

17 (1) The notice shall inform the applicant that the state
18 governmental licensing entity shall issue a temporary license, as
19 provided in subparagraph (A) of paragraph (2) of subdivision (e),
20 for 90 calendar days if the applicant is otherwise eligible and that
21 upon expiration of that time period, the license will be denied
22 unless the state governmental licensing entity has received a
23 release from the Franchise Tax Board.

24 (2) The notice shall inform the licensee that any license
25 suspended under this section will remain suspended unless the
26 state governmental licensing entity receives a release along with
27 applications and fees, if applicable, to reinstate the license.

28 (3) The notice shall also inform the applicant or licensee that
29 if an application is denied or a license is suspended pursuant to
30 this section, any moneys paid by the applicant or licensee shall
31 not be refunded by the state governmental licensing entity. The
32 state governmental licensing entity shall also develop a form that
33 the applicant or licensee shall use to request a release by the
34 Franchise Tax Board. A copy of this form shall be included with
35 every notice sent pursuant to this subdivision.

36 (h) If the applicant or licensee wishes to challenge the
37 submission of his or her name on a certified list, the applicant or
38 licensee shall make a timely written request for release to the
39 Franchise Tax Board. The Franchise Tax Board shall immediately
40 send a release to the appropriate state governmental licensing

1 entity and the applicant or licensee, if any of the following
2 conditions are met:

3 (1) The applicant or licensee has complied with the tax
4 obligation, either by payment of the unpaid taxes or entry into an
5 installment payment agreement, as described in Section 19008 of
6 the Revenue and Taxation Code, to satisfy the unpaid taxes.

7 (2) The applicant or licensee has submitted a request for release
8 not later than 45 days after the applicant's or licensee's receipt
9 of a preliminary notice described in paragraph (2) of subdivision
10 (e), but the Franchise Tax Board will be unable to complete the
11 release review and send notice of its findings to the applicant or
12 licensee and state governmental licensing entity within 45 days
13 after the Franchise Tax Board's receipt of the applicant's or
14 licensee's request for release. Whenever a release is granted under
15 this paragraph, and, notwithstanding that release, the applicable
16 license or licenses have been suspended erroneously, the state
17 governmental licensing entity shall reinstate the applicable licenses
18 with retroactive effect back to the date of the erroneous suspension
19 and that suspension shall not be reflected on any license record.

20 (3) The applicant or licensee is unable to pay the outstanding
21 liability due to a current financial hardship, as determined by the
22 Franchise Tax Board.

23 (i) An applicant or licensee is required to act with diligence in
24 responding to notices from the state governmental licensing entity
25 and the Franchise Tax Board with the recognition that the
26 temporary license will lapse or the license suspension will go into
27 effect after 90 days and that the Franchise Tax Board must have
28 time to act within that period. An applicant's or licensee's delay
29 in acting, without good cause, which directly results in the inability
30 of the Franchise Tax Board to complete a review of the applicant's
31 or licensee's request for release shall not constitute the diligence
32 required under this section which would justify the issuance of a
33 release. An applicant or licensee shall have the burden of
34 establishing that he or she diligently responded to notices from
35 the state governmental licensing entity or the Franchise Tax Board
36 and that any delay was not without good cause.

37 (j) The Franchise Tax Board shall create release forms for use
38 pursuant to this section. When the applicant or licensee has
39 complied with the tax obligation, either by payment of the unpaid
40 taxes or entry into an installment payment agreement, the

1 Franchise Tax Board shall mail a release form to the applicant
2 or licensee and provide a release to the appropriate state
3 governmental licensing entity. Any state governmental licensing
4 entity that has received a release from the Franchise Tax Board
5 pursuant to this subdivision shall process the release within five
6 business days of its receipt. If the Franchise Tax Board determines
7 subsequent to the issuance of a release that the licensee has not
8 complied with their installment payment agreement, the Franchise
9 Tax Board may notify the state governmental licensing entity and
10 the licensee in a format prescribed by the Franchise Tax Board
11 that the licensee is not in compliance and the release shall be
12 rescinded. The Franchise Tax Board may, when it is economically
13 feasible for the state governmental licensing entity to develop an
14 automated process for complying with this subdivision, notify the
15 state governmental licensing entity in a manner prescribed by the
16 Franchise Tax Board, that the licensee has not complied with the
17 installment payment agreement. Upon receipt of this notice, the
18 state governmental licensing entity shall immediately notify the
19 licensee on a form prescribed by the state governmental licensing
20 entity that the licensee's license will be suspended on a specific
21 date, and this date shall be no longer than 30 days from the date
22 the form is mailed. The licensee shall be further notified that the
23 license will remain suspended until a new release is issued in
24 accordance with subdivision (h).

25 (k) The Franchise Tax Board may enter into interagency
26 agreements with the state governmental licensing entities necessary
27 to implement this section, to the extent that it is cost effective to
28 implement this section.

29 (l) Notwithstanding any other law, a state governmental
30 licensing entity, with the approval of the appropriate department
31 director or governing body, may impose a fee on a licensee whose
32 license has been suspended pursuant to this section. The fee shall
33 not exceed the amount necessary for the state governmental
34 licensing entity to cover its costs in carrying out the provisions of
35 this section. Fees imposed pursuant to this section shall be
36 deposited in the fund in which other fees imposed by the state
37 governmental licensing entity are deposited and shall be available
38 to that entity upon appropriation in the annual Budget Act.

39 (m) The process described in subdivision (h) shall constitute
40 the sole administrative remedy for contesting the issuance of a

1 temporary license or the denial or suspension of a license under
2 this section. The procedures specified in the administrative
3 adjudication provisions of the Administrative Procedure Act
4 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
5 (commencing with Section 11500) of Part 1 of Division 3 of Title
6 2 of the Government Code) shall not apply to the denial,
7 suspension, or failure to issue or renew a license or the issuance
8 of a temporary license pursuant to this section.

9 (n) Any state governmental licensing entity receiving an inquiry
10 as to the licensed status of an applicant or licensee who has had
11 a license denied or suspended under this section or who has been
12 granted a temporary license under this section shall respond only
13 that the license was denied or suspended or the temporary license
14 was issued pursuant to this section. Information collected pursuant
15 to this section by any state agency, board, or department shall be
16 subject to the Information Practices Act of 1977 (Chapter 1
17 (commencing with Section 1798) of Title 1.8 of Part 4 of Division
18 3 of the Civil Code).

19 (o) Any rules and regulations issued pursuant to this section by
20 any state agency, board, or department may be adopted as
21 emergency regulations in accordance with the rulemaking
22 provisions of the Administrative Procedure Act (Chapter 3.5
23 (commencing with Section 11340) of Part 1 of Division 3 of Title
24 2 of the Government Code). The adoption of these regulations
25 shall be deemed an emergency and necessary for the immediate
26 preservation of the public peace, health, and safety, or general
27 welfare. The regulations shall become effective immediately upon
28 filing with the Secretary of State.

29 (p) The Franchise Tax Board and state governmental licensing
30 entities, as appropriate, shall adopt regulations as necessary to
31 implement this section.

32 (q) (1) Neither the state governmental licensing entity, nor any
33 officer, employee, or agent, or former officer, employee, or agent
34 of a state governmental licensing entity, may disclose or use any
35 information obtained from the Franchise Tax Board, pursuant to
36 this section, except to inform the public of the suspension of a
37 license pursuant to this section. The release or other use of
38 information received by a state governmental licensing entity
39 pursuant to this section, except as authorized by this section, is
40 punishable as a misdemeanor. This subdivision may not be

1 *interpreted to prevent the State Bar of California from filing a*
2 *request with the Supreme Court of California to suspend a member*
3 *of the bar pursuant to this section.*

4 (2) *To the extent permitted under federal law, a suspension or*
5 *revocation of a license pursuant to this section shall not be*
6 *reported to the National Practitioner Data Bank.*

7 (r) *If any provision of this section or the application thereof to*
8 *any person or circumstance is held invalid, that invalidity shall*
9 *not affect other provisions or applications of this section that can*
10 *be given effect without the invalid provision or application, and*
11 *to this end the provisions of this section are severable.*

12 (s) *All rights to review afforded by this section to an applicant*
13 *shall also be afforded to a licensee.*

14 (t) (1) *If the state governmental licensing entity, as defined in*
15 *Section 19265 of the Revenue and Taxation Code, does not*
16 *suspend, revoke, or deny renewal of a license within 90 days of*
17 *the mailing of preliminary notice as described in subdivision (f),*
18 *the Franchise Tax Board is authorized to suspend the license*
19 *pursuant to Section 19265 of the Revenue and Taxation Code.*

20 (2) *If the state governmental licensing entity has not suspended,*
21 *revoked, or denied the renewal of a license within 90 days of the*
22 *mailing of the preliminary notice as described in subdivision (e),*
23 *the state governmental licensing entity shall promptly notify the*
24 *Franchise Tax Board and the licensee. The notification shall*
25 *include the reason why no action was taken by the state*
26 *governmental licensing entity.*

27 (3) *If the election described in subparagraph (B) of paragraph*
28 *(4) of subdivision (b) has been made, the Franchise Tax Board is*
29 *authorized to suspend, pursuant to Section 19265 of the Revenue*
30 *and Taxation Code, the license of a licensee subject to the*
31 *jurisdiction of the entity that made that election.*

32 (u) *Unless otherwise provided in this section, the policies,*
33 *practices, and procedures of a state governmental licensing entity*
34 *with respect to license suspensions under this section shall be the*
35 *same as those applicable with respect to suspensions pursuant to*
36 *Section 17520 of the Family Code.*

37 (v) *No provision of this section shall be interpreted to allow a*
38 *court to review and prevent the collection of income taxes prior*
39 *to the payment of those taxes in violation of the California*
40 *Constitution.*

1 (w) *This section shall apply to any licensee whose name appears*
2 *on a list of the 250 largest tax delinquencies pursuant to Section*
3 *19195 of the Revenue and Taxation Code on or after January 1,*
4 *2012.*

5 *SEC. 4. Section 7145.5 of the Business and Professions Code*
6 *is amended to read:*

7 7145.5. (a) The registrar may refuse to issue, reinstate,
8 reactivate, or renew a license or may suspend a license for the
9 failure of a licensee to resolve all outstanding final liabilities, which
10 include taxes, additions to tax, penalties, interest, and any fees that
11 may be assessed by the board, the Department of Industrial
12 Relations, the Employment Development Department, or the
13 Franchise Tax Board.

14 (1) Until the debts covered by this section are satisfied, the
15 qualifying person and any other personnel of record named on a
16 license that has been suspended under this section shall be
17 prohibited from serving in any capacity that is subject to licensure
18 under this chapter, but shall be permitted to act in the capacity of
19 a nonsupervising bona fide employee.

20 (2) The license of any other renewable licensed entity with any
21 of the same personnel of record that have been assessed an
22 outstanding liability covered by this section shall be suspended
23 until the debt has been satisfied or until the same personnel of
24 record disassociate themselves from the renewable licensed entity.

25 (b) The refusal to issue a license or the suspension of a license
26 as provided by this section shall be applicable only if the registrar
27 has mailed a notice preliminary to the refusal or suspension that
28 indicates that the license will be refused or suspended by a date
29 certain. This preliminary notice shall be mailed to the licensee at
30 least 60 days before the date certain.

31 (c) In the case of outstanding final liabilities assessed by the
32 Franchise Tax Board, this section shall be operative within 60 days
33 after the Contractors' State License Board has provided the
34 Franchise Tax Board with the information required under Section
35 30, relating to licensing information that includes the federal
36 employee identification number or social security number.

37 (d) All versions of the application for contractors' licenses shall
38 include, as part of the application, an authorization by the applicant,
39 in the form and manner mutually agreeable to the Franchise Tax
40 Board and the board, for the Franchise Tax Board to disclose the

1 tax information that is required for the registrar to administer this
2 section. The Franchise Tax Board may from time to time audit
3 these authorizations.

4 *(e) This section shall not be interpreted to conflict with the*
5 *suspension of a license pursuant to Section 494.5 of this code or*
6 *Section 19265 of the Revenue and Taxation Code.*

7 *SEC. 5. Section 12419.13 is added to the Government Code,*
8 *to read:*

9 *12419.13. (a) (1) The Controller shall, upon execution of a*
10 *reciprocal agreement between the Franchise Tax Board and any*
11 *other state imposing an income tax or tax measured by income,*
12 *offset any delinquent tax debt due to that other state from a person*
13 *or entity, against any refund under the Personal Income Tax Law*
14 *or the Corporation Tax Law owed to that person or entity.*

15 *(2) Standards and procedures for submission of requests for*
16 *offsets shall be as prescribed by the Controller.*

17 *(3) Payment of the offset amount shall occur only after other*
18 *offset requests for debts owed by a person or entity to this state or*
19 *the federal government have been satisfied in accordance with the*
20 *priority established under Section 12419.3.*

21 *(b) The reciprocal agreement identified in subdivision (a) shall*
22 *prescribe the manner in which the administrative costs of the*
23 *Controller and the Franchise Tax Board shall be reimbursed.*

24 *SEC. 6. Section 10295.4 is added to the Public Contract Code,*
25 *to read:*

26 *10295.4. (a) Notwithstanding any other law, a state agency*
27 *shall not enter into any contract for the acquisition of goods or*
28 *services with a contractor whose name appears on the list of the*
29 *250 largest tax delinquencies pursuant to Section 19195 of the*
30 *Revenue and Taxation Code. Any contract entered into in violation*
31 *of this subdivision is void and unenforceable.*

32 *(b) This section shall apply to any contract executed on or after*
33 *January 1, 2012.*

34 *SEC. 7. Section 19195 of the Revenue and Taxation Code is*
35 *amended to read:*

36 *19195. (a) Notwithstanding any other provision of law,*
37 *including Section 6254.21 of the Government Code, the Franchise*
38 *Tax Board shall make available as a matter of public record at*
39 *least twice each calendar year a list of the 250 largest tax*
40 *delinquencies in excess of one hundred thousand dollars (\$100,000)*

1 under Part 10 and Part 11 of this division, ~~as of December 31 of~~
2 ~~the preceding year.~~ For purposes of compiling the list, a tax
3 delinquency means the total amount owed by a taxpayer to the
4 State of California for which a notice of state tax lien has been
5 recorded in any county recorder's office in this state, pursuant to
6 Chapter 14 (commencing with Section 7150) of Division 7 of Title
7 1 of the Government Code.

8 (b) For purposes of the list, a tax delinquency does not include
9 any of the following and may not be included on the list:

10 (1) A delinquency for which payment arrangements have been
11 agreed to by both the taxpayer and the Franchise Tax Board and
12 the taxpayer is in compliance with the arrangement.

13 (2) A delinquency for which the taxpayer has filed for
14 bankruptcy protection pursuant to Title 11 of the United States
15 Code.

16 (3) A delinquency for which the person or persons liable for the
17 tax have contacted the Franchise Tax Board and for which
18 resolution of the tax delinquency has ~~not been rejected~~ *been*
19 *accepted* by the Franchise Tax Board.

20 (c) Each ~~annual~~ list shall, with respect to each delinquency,
21 include all the following:

22 (1) The name of the person or persons liable for payment of the
23 tax and that person's or persons' address.

24 (2) The amount of tax delinquency as shown on the notice or
25 notices of state tax lien and any applicable interest or penalties,
26 less any amounts paid.

27 (3) The earliest date that a notice of state tax lien was filed.

28 (4) The type of tax that is delinquent.

29 (5) *The type, status, and license number of any occupational or*
30 *professional license held by the person or persons liable for*
31 *payment of the tax.*

32 (6) *The names and titles of the principal officers of the person*
33 *liable for payment of the tax if that person is a limited liability*
34 *company or corporation.*

35 (d) Prior to making a tax delinquency a matter of public record
36 as required by this section, the Franchise Tax Board shall provide
37 a preliminary written notice to the person or persons liable for the
38 tax by certified mail, return receipt requested. If within 30 days
39 after issuance of the notice, the person or persons do not remit the
40 amount due or make arrangements with the Franchise Tax Board

1 for payment of the amount due, the tax delinquency shall be
2 included on the list.

3 (e) The ~~annual~~ list described in subdivision (a) shall include the
4 following:

5 (1) The telephone number and address of the Franchise Tax
6 Board office to contact if a person believes placement of his or
7 her name on the list is in error.

8 (2) The aggregate number of persons that have appeared on the
9 list who have satisfied their delinquencies in their entirety and the
10 dollar amounts, in the aggregate, that have been paid attributable
11 to those delinquencies.

12 (f) As promptly as feasible, but no later than five business days
13 from the occurrence of any of the following, the Franchise Tax
14 Board shall remove that taxpayer's name from the list of tax
15 delinquencies:

16 (1) Tax delinquencies for which the person liable for the tax
17 has contacted the Franchise Tax Board and resolution of the
18 delinquency has been arranged.

19 (2) Tax delinquencies for which the Franchise Tax Board has
20 verified that an active bankruptcy proceeding has been initiated.

21 (3) Tax delinquencies for which the Franchise Tax Board has
22 verified that a bankruptcy proceeding has been completed and
23 there are no assets available with which to pay the delinquent
24 amount or amounts.

25 (4) Tax delinquencies that the Franchise Tax Board has
26 determined to be uncollectible.

27 (g) A person whose delinquency appears on the ~~annual~~ list, and
28 who satisfies that delinquency in whole or in part, may request the
29 Franchise Tax Board to include in its ~~annual~~ list any payments that
30 person made to satisfy the delinquency. Upon receipt of that
31 request, the Franchise Tax Board shall include those payments on
32 the list as promptly as feasible.

33 (h) *Notwithstanding subdivision (a), a person whose delinquency*
34 *appeared on the list and whose name has been removed pursuant*
35 *to paragraph (1) of subdivision (f) shall comply with the terms of*
36 *the arranged resolution. If the person fails to do so, the Franchise*
37 *Tax Board may add that person's name to the list of delinquencies*
38 *without providing the prior written notice otherwise required by*
39 *subdivision (d).*

1 SEC. 8. Section 19265 is added to the Revenue and Taxation
2 Code, to read:

3 19265. (a) (1) All state governmental licensing entities issuing
4 professional or occupational licenses, certificates, registrations,
5 or permits shall provide to the Franchise Tax Board the name and
6 social security number or federal taxpayer identification number,
7 as applicable, of each licensee of that state governmental licensing
8 entity.

9 (2) If any licensee appears on a list of the 250 largest tax
10 delinquencies pursuant to Section 19195, and the license of that
11 licensee has not been suspended, revoked, or denied by the
12 applicable state governmental licensing entity pursuant to Section
13 494.5 of the Business and Professions Code, then the Franchise
14 Tax Board shall mail a preliminary notice of suspension to the
15 licensee indicating that the license will be suspended by a date
16 certain, which shall be at least 60 days after the mailing of the
17 preliminary notice, unless prior to the date certain the licensee
18 pays the unpaid taxes or enters into an installment payment
19 agreement, as described in Section 19008, to satisfy the unpaid
20 taxes. The preliminary notice shall also advise the licensee of the
21 opportunity to request deferral or cancellation of a suspension
22 pursuant to subdivision (b).

23 (3) If any licensee subject to paragraph (2) fails to pay the
24 unpaid taxes or to enter into an installment payment agreement,
25 as described in Section 19008, to satisfy the unpaid taxes prior to
26 the date certain listed in the preliminary notice of suspension, his
27 or her license shall be automatically suspended by operation of
28 this section, except as provided in subdivision (b), and the
29 Franchise Tax Board shall provide a notice of suspension to the
30 applicable state governmental licensing entity and shall mail a
31 notice of suspension to the licensee. The rights, powers, and
32 privileges of any licensee whose license to drive a motor vehicle,
33 professional or occupational license, certificate, registration, or
34 permit has been suspended pursuant to this section shall be subject
35 to the same prohibitions, limitations, and restrictions as if the
36 license to drive a motor vehicle, professional or occupational
37 license, certificate, registration, or permit were suspended by the
38 state governmental licensing entity that issued the professional or
39 occupational license, certificate, registration, or permit.

1 (4) (A) Upon compliance by the licensee with the tax obligation,
2 either by payment of the unpaid taxes or entry into an installment
3 payment agreement, as described in Section 19008, to satisfy the
4 unpaid taxes, a suspension pursuant to this subdivision shall be
5 canceled. The Franchise Tax Board shall, within 10 business days
6 of compliance by the licensee with the tax obligation, notify both
7 the state governmental licensing entity and the licensee that the
8 unpaid taxes have been paid or that an installment payment
9 agreement, as described in Section 19008, has been entered into
10 to satisfy the unpaid taxes and that the suspension has been
11 canceled.

12 (B) Whenever a suspension is canceled under this paragraph
13 and the applicable license or licenses have been suspended in
14 error, the Franchise Tax Board shall notify the state governmental
15 licensing entity to reinstate all applicable licenses back to the date
16 of suspension and expunge any notation of that suspension from
17 the licensee's record.

18 (5) If a license is not suspended, or if the suspension of a license
19 is canceled, based on the licensee entering into an installment
20 payment agreement as described in Section 19008, and the licensee
21 fails to comply with the terms of the installment payment
22 agreement, that license shall be suspended as of the date that is
23 30 days after the date of termination of that installment payment
24 agreement. If a license is suspended pursuant to this paragraph,
25 the Franchise Tax Board shall provide notice of suspension to the
26 applicable state governmental licensing entity and mail a notice
27 of suspension to the licensee.

28 (6) State governmental licensing entities shall provide to the
29 Franchise Tax Board the information required by this subdivision
30 at a time that the Franchise Tax Board may require.

31 (b) (1) The Franchise Tax Board may defer or cancel any
32 suspension authorized by this section if a licensee is unable to pay
33 the liability due to a current financial hardship. The Franchise
34 Tax Board shall, if requested by the licensee in writing, provide
35 for an administrative hearing to determine if the licensee is unable
36 to pay the liability due to a current financial hardship.

37 (2) The request for a hearing specified in paragraph (1) shall
38 be made in writing within 30 days from the mailing date of the
39 preliminary notice described in subdivision (a).

1 (3) *The Franchise Tax Board shall conduct a hearing within*
2 *30 days after receipt of a request pursuant to paragraph (1), unless*
3 *the board postpones the hearing, upon a showing of good cause*
4 *by the licensee, in which case a suspension pursuant to subdivision*
5 *(a) shall be deferred until the hearing has been completed.*

6 (4) *A licensee seeking relief under this subdivision shall only*
7 *be entitled to relief described in paragraph (1) if the licensee*
8 *provides the Franchise Tax Board with financial documents that*
9 *substantiate a financial hardship, and agrees to an acceptable*
10 *payment arrangement.*

11 (5) *If the deferral of a suspension of a license under this*
12 *subdivision is no longer operative, that license shall be suspended*
13 *as of the date that is 30 days after the date the deferral is no longer*
14 *operative. If a license is suspended pursuant to this paragraph,*
15 *the Franchise Tax Board shall provide notice of suspension to the*
16 *applicable state governmental licensing entity and mail a notice*
17 *of suspension to the licensee.*

18 (c) *For purposes of this section and Section 19571, the following*
19 *definitions shall apply:*

20 (1) *“Financial hardship” means financial hardship within the*
21 *meaning of Section 19008, as determined by the Franchise Tax*
22 *Board, where the licensee is financially unable to pay any part of*
23 *the amount described in subdivision (a) and the licensee is unable*
24 *to qualify for an installment payment arrangement as provided for*
25 *by Section 19008. In order to establish the existence of a financial*
26 *hardship, the licensee shall submit any information, including*
27 *information related to reasonable business and personal expenses,*
28 *requested by the Franchise Tax Board for the purpose of making*
29 *that determination.*

30 (2) *“License” includes a certificate, registration, or any other*
31 *authorization to engage in a profession or occupation issued by*
32 *a state governmental licensing entity. “License” includes a driver’s*
33 *license issued pursuant to Chapter 1 (commencing with Section*
34 *12500) of Division 6 of the Vehicle Code.*

35 (3) *“Licensee” means an individual authorized by a license to*
36 *drive a motor vehicle or authorized by a license, certificate,*
37 *registration, or other authorization to engage in a profession or*
38 *occupation issued by a state governmental licensing entity.*

39 (4) *“State governmental licensing entity” means any entity listed*
40 *in Section 101, 1000, or 19420 of the Business and Professions*

1 Code, the office of the Attorney General, the Department of
2 Insurance, the Department of Motor Vehicles, the Department of
3 Real Estate, and any other state agency, board, or commission
4 that issues a license, certificate, or registration authorizing an
5 individual to engage in a profession or occupation, including any
6 certificate, business or occupational license, or permit or license
7 issued by the Department of Motor Vehicles or the Department of
8 the California Highway Patrol. “State governmental licensing
9 entity” shall not include the Department of Alcoholic Beverage
10 Control or the State Bar of California.

11 (d) Notwithstanding any other law, a state governmental
12 licensing entity may, with the approval of the appropriate
13 department director or governing body, impose a fee on licensees
14 whose license has been suspended as described in subdivision (a).
15 The fee shall not exceed the amount necessary for the state
16 governmental licensing entity to cover its costs in carrying out the
17 provisions of this section. Fees imposed pursuant to this section
18 shall be deposited in the fund in which other fees imposed by the
19 state governmental licensing entity are deposited and shall be
20 available to that entity upon appropriation in the annual Budget
21 Act.

22 (e) The process described in subdivision (b) shall constitute the
23 sole administrative remedy for contesting the suspension of a
24 license under this section. The procedures in the administrative
25 adjudication provisions of the Administrative Procedure Act
26 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
27 (commencing with Section 11500) of Part 1 of Division 3 of Title
28 2 of the Government Code) shall not apply to the suspension of a
29 license pursuant to this section.

30 (f) This section shall apply to any licensee whose name appears
31 on a list of the 250 largest tax delinquencies pursuant to Section
32 19195 on or after January 1, 2012.

33 SEC. 9. Article 7 (commencing with Section 19291) is added
34 to Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation
35 Code, to read:

1 *Article 7. Collection of Tax Debts Due to the Internal Revenue*
2 *Service or Other States*

3
4 19291. (a) *The Franchise Tax Board may enter into an*
5 *agreement to collect any delinquent tax debt due to the Internal*
6 *Revenue Service or any other state imposing an income tax or tax*
7 *measured by income if, pursuant to Section 19377.5, the Internal*
8 *Revenue Service or that state has entered into an agreement to*
9 *collect delinquent tax debts due the Franchise Tax Board.*

10 (b) *Upon written notice to the debtor from the Franchise Tax*
11 *Board, any amount referred to the Franchise Tax Board under*
12 *subdivision (a) shall be treated as final and due and payable to*
13 *the State of California, and shall be collected from the debtor by*
14 *the Franchise Tax Board in any manner authorized under the law*
15 *for collection of a delinquent income tax liability, including, but*
16 *not limited to, the recording of a notice of state tax lien under*
17 *Article 2 (commencing with Section 7170) of Chapter 14 of*
18 *Division 7 of Title 1 of the Government Code, and the issuance of*
19 *an order and levy under Article 4 (commencing with Section*
20 *706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code*
21 *of Civil Procedure in the manner provided for earnings withholding*
22 *orders for taxes.*

23 (c) *Part 10 (commencing with Section 17001), this part, Part*
24 *10.7 (commencing with Section 21001), and Part 11 (commencing*
25 *with Section 23001) shall apply to amounts referred under this*
26 *section in the same manner and with the same force and effect and*
27 *to the full extent as if the language of those laws had been*
28 *incorporated in full into this section, except to the extent that any*
29 *provision is either inconsistent with this section or is not relevant*
30 *to this section.*

31 (d) *The activities required to implement and administer this*
32 *section shall not interfere with the primary mission of the Franchise*
33 *Tax Board to administer Part 10 (commencing with Section 17001)*
34 *and Part 11 (commencing with Section 23001).*

35 (e) *In no event shall a collection under this section be construed*
36 *as a payment of income taxes imposed under Part 10 (commencing*
37 *with Section 17001) or Part 11 (commencing with Section 23001).*

38 SEC. 10. *Section 19377.5 is added to the Revenue and Taxation*
39 *Code, to read:*

1 19377.5. (a) *The Franchise Tax Board may enter into an*
2 *agreement with the Internal Revenue Service or any other state*
3 *imposing an income tax or tax measured by income for the purpose*
4 *of collecting delinquent tax debts with respect to amounts assessed*
5 *or imposed under Part 10 (commencing with Section 17001), this*
6 *part, or Part 11 (commencing with Section 23001), provided the*
7 *agreements do not cause the net displacement of civil service*
8 *employees. The agreement may provide, at the discretion of the*
9 *Franchise Tax Board, the rate of payment and the manner in which*
10 *compensation for services shall be paid.*

11 (b) *At the discretion of the Franchise Tax Board, the Internal*
12 *Revenue Service or the other state collecting the tax debt pursuant*
13 *to subdivision (a) may, as part of the collection process, refer the*
14 *tax debt for litigation by its legal representatives in the name of*
15 *the Franchise Tax Board.*

16 (c) *For purposes of this section, “displacement” includes layoff,*
17 *demotion, involuntary transfer to a new class, involuntary transfer*
18 *to a new location requiring a change of residence, and time base*
19 *reductions. “Displacement” does not include changes in shifts or*
20 *days off, nor does it include reassignment to any other position*
21 *within the same class and general location.*

22 SEC. 11. *Section 19571 is added to the Revenue and Taxation*
23 *Code, to read:*

24 19571. (a) *The Franchise Tax Board may disclose to state*
25 *governmental licensing entities information regarding suspension*
26 *of a license pursuant to Section 19265 of this code or Sections*
27 *494.5 or 7145.5 of the Business and Professions Code.*

28 (b) *Neither the state governmental licensing entity, nor any*
29 *officer, employee, or agent, or former officer, employee, or agent*
30 *of a state governmental licensing entity, may disclose or use any*
31 *information obtained from the Franchise Tax Board, pursuant to*
32 *this section, except to inform the public of the suspension of a*
33 *license pursuant to Section 19265 of this code or Sections 494.5*
34 *or 7145.5 of the Business and Professions Code.*

35 (c) *For purposes of this section, the definitions in Section 19265*
36 *shall apply.*

37 SEC. 12. *No reimbursement is required by this act pursuant*
38 *to Section 6 of Article XIII B of the California Constitution because*
39 *a local agency or school district has the authority to levy service*
40 *charges, fees, or assessments sufficient to pay for the program or*

1 *level of service mandated by this act or because costs that may be*
2 *incurred by a local agency or school district will be incurred*
3 *because this act creates a new crime or infraction, eliminates a*
4 *crime or infraction, or changes the penalty for a crime or*
5 *infraction, within the meaning of Section 17556 of the Government*
6 *Code, or changes the definition of a crime within the meaning of*
7 *Section 6 of Article XIII B of the California Constitution.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Assembly, May 4, 2011. (JR11)**