

**ASSEMBLY BILL**

**No. 1411**

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**Introduced by Committee on Revenue and Taxation (Bocanegra  
(Chair), Gordon, Mullin, Pan, V. Manuel Pérez, and Ting)**

March 19, 2013

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An act to amend Section 19266 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1411, as introduced, Committee on Revenue and Taxation. Tax administration: Financial Institution Record Match: addresses.

Existing law requires the Franchise Tax Board to administer specified taxes and collect those taxes from delinquent tax debtors. Existing law requires the Franchise Tax Board, in coordination with financial institutions doing business in this state, to operate a Financial Institution Record Match System utilizing automated data exchanges to the maximum extent feasible in order to allow the Franchise Tax Board to match its list of delinquent tax debtors, as defined, with the lists provided by the financial institutions. Information provided by financial institutions relating to tax debtors includes the name, record address, other addresses, and other identifying information for each delinquent tax debtor, as identified by the Franchise Tax Board. Existing law prohibits the use of tax debtor information by the Franchise Tax Board for purposes other than tax collection, and punishes the unauthorized use of certain data as a misdemeanor.

This bill would remove the prohibition on the Franchise Tax Board on using Financial Institution Record Match tax debtor address information for purposes other than tax collection.

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

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

1 SECTION 1. Section 19266 of the Revenue and Taxation Code  
2 is amended to read:  
3 19266. (a) (1) The Franchise Tax Board, in coordination with  
4 financial institutions doing business in this state, shall operate a  
5 Financial Institution Record Match System utilizing automated  
6 data exchanges to the maximum extent feasible.  
7 (2) The Franchise Tax Board shall prescribe any rules and  
8 regulations that may be necessary or appropriate to implement this  
9 section. These rules and regulations shall include all of the  
10 following:  
11 (A) A structure by which financial institutions, or their  
12 designated data-processing agents, shall receive from the Franchise  
13 Tax Board the file or files of delinquent debtors that the institution  
14 shall match with its own list of accountholders to identify  
15 delinquent tax debtor accountholders at the institution.  
16 (B) An option by which financial institutions without the  
17 technical ability to process the data exchange, or without the ability  
18 to employ a third-party data processor to process the data exchange,  
19 may forward to the Franchise Tax Board a list of all accountholders  
20 and their social security numbers or other taxpayer identification  
21 numbers, so that the Franchise Tax Board shall match that list with  
22 the file or files of delinquent tax debtors.  
23 (C) Authority for the Franchise Tax Board to exempt a financial  
24 institution from the requirements of this section if the Franchise  
25 Tax Board determines that the financial institution participation  
26 would not generate sufficient revenue to be cost effective for the  
27 Franchise Tax Board.  
28 (D) Authority for the Franchise Tax Board to temporarily  
29 suspend the requirements of this section for a financial institution  
30 if the financial institution provides the Franchise Tax Board with  
31 a written notice from its supervisory banking authority that it is  
32 determined to be undercapitalized, significantly undercapitalized,  
33 or critically undercapitalized as defined by FDIC Regulation  
34 325.103(b)(3), (4), and (5) or NCUA Regulation 702.102. The

1 notice provided pursuant to this subparagraph shall be subject to  
2 the protections of Section 19542.

3 (b) The Financial Institution Record Match System shall not be  
4 subject to any limitation set forth in Chapter 20 (commencing with  
5 Section 7460) of Division 7 of Title 1 of the Government Code.  
6 However, any use of the information, *other than information*  
7 *relating to an individual's address*, provided pursuant to this  
8 section for any purpose other than the collection of amounts  
9 identified in paragraphs (1), (2), and (3) shall be a violation of  
10 Section 19542.

11 (1) Delinquent amounts due the board, as imposed under Part  
12 1 (commencing with Section 6001), Part 1.5 (commencing with  
13 Section 7200), Part 1.6 (commencing with Section 7251), Part 1.7  
14 (commencing with Section 7280), Part 3 (commencing with Section  
15 8601), Part 3.5 (commencing with Section 9401), Part 6  
16 (commencing with Section 11201), Part 13 (commencing with  
17 Section 30001), Part 14 (commencing with Section 32001), Part  
18 18.5 (commencing with Section 38101), Part 19 (commencing  
19 with Section 40001), Part 20 (commencing with Section 41001),  
20 Part 22 (commencing with Section 43001), Part 22.5 (commencing  
21 with Section 44000), Part 23 (commencing with Section 45001),  
22 Part 24 (commencing with Section 46001), Part 26 (commencing  
23 with Section 50101), Part 30 (commencing with Section 55001),  
24 or Part 31 (commencing with Section 60001).

25 (2) Delinquent amounts due the Employment Development  
26 Department, as imposed under the Unemployment Insurance Code,  
27 or other debts or penalty assessments referred to the Employment  
28 Development Department for collection.

29 (3) Delinquent franchise or income tax or other debts referred  
30 to the Franchise Tax Board for collection, as imposed under Part  
31 5 (commencing with Section 10701), Part 10 (commencing with  
32 Section 17001), ~~Part 10.2 (commencing with Section 18401)~~ *this*  
33 *part*, or Part 11 (commencing with Section 23001).

34 (c) (1) To effectuate the Financial Institution Record Match  
35 System, financial institutions subject to this section shall provide  
36 to the Franchise Tax Board on a quarterly basis the name, record  
37 address, and other addresses, social security number or other  
38 taxpayer identification number, and other identifying information  
39 for each delinquent tax debtor, as identified by the Franchise Tax

1 Board by name and social security number or other taxpayer  
2 identification number, who maintains an account at the institution.

3 (2) The first data file created by the Franchise Tax Board for  
4 purposes of matching tax debtor records to financial institution  
5 accountholder records shall be limited to 600,000 tax debtor  
6 records. The number of tax debtor records included in a subsequent  
7 data file created by the Franchise Tax Board may be increased by  
8 no more than 600,000 tax debtor records greater than the number  
9 of tax debtor records included in the immediately preceding data  
10 file until all eligible tax debtor records are included in the data  
11 match file.

12 (d) Unless otherwise required by law, a financial institution  
13 furnishing a report or providing information to the Franchise Tax  
14 Board pursuant to this section shall not disclose to a depositor or  
15 an accountholder, or a codepositor or coaccountholder, that the  
16 name, address, social security number or other taxpayer  
17 identification number, or other identifying information of that  
18 delinquent tax debtor has been received from or furnished to the  
19 Franchise Tax Board.

20 (e) A financial institution shall incur no obligation or liability  
21 to any person arising from any of the following:

22 (1) Furnishing information to the Franchise Tax Board as  
23 required by this section.

24 (2) Failing to disclose to a depositor or accountholder that the  
25 name, address, social security number or other taxpayer  
26 identification number, or other identifying information of that  
27 delinquent tax debtor was included in the data exchange with the  
28 Franchise Tax Board required by this section.

29 (3) Any other action taken in good faith to comply with the  
30 requirements of this section.

31 (f) The Franchise Tax Board may institute civil proceedings to  
32 enforce this section.

33 (g) Any financial institution that willfully fails to comply with  
34 the rules and regulations promulgated by the Franchise Tax Board  
35 for the administration of delinquent tax collections, unless it is  
36 shown to the satisfaction of the Franchise Tax Board that the failure  
37 is due to reasonable cause, shall be assessed a penalty upon notice  
38 and demand of the Franchise Tax Board and collected in the same  
39 manner as tax. The penalty imposed under this section shall be in  
40 an amount equal to fifty dollars (\$50) for each record not provided,

1 but the total imposed on that financial institution for all such  
2 failures during any calendar year shall not exceed one hundred  
3 thousand dollars (\$100,000).

4 (h) For purposes of this section:

5 (1) “Account” means a demand deposit account, share or share  
6 draft account, checking or negotiable withdrawal order account,  
7 savings account, time deposit account, or money market mutual  
8 fund account, regardless of whether the account bears interest.

9 (2) “Financial institution” means:

10 (A) A depository institution, as defined in Section 1813(c) of  
11 Title 12 of the United States Code.

12 (B) An institution-affiliated party, as defined in Section 1813(u)  
13 of Title 12 of the United States Code.

14 (C) A federal credit union or state credit union, as defined in  
15 Section 1752 of Title 12 of the United States Code, including an  
16 institution-affiliated party of a credit union, as defined in Section  
17 1786(r) of Title 12 of the United States Code.

18 (D) A benefit association, insurance company, safe deposit  
19 company, money-market fund, or similar entity authorized to do  
20 business in this state.

21 (3) “Delinquent tax debtor” means any of the following:

22 (A) Any person liable for any tax, fee, or surcharge amounts,  
23 and any penalty, interest, or other amounts required to be paid to  
24 the board, where the liability remains unpaid after 30 days from  
25 demand for payment by the board, and the person is not making  
26 current timely installment payments on the liability under an  
27 installment payment agreement as provided by law.

28 (B) Any person liable for any amounts required to be paid to  
29 the Employment Development Department or for any debts or  
30 penalty assessments referred to the Employment Development  
31 Department for collection and the person is not making current  
32 timely installment payments on the liability under an approved  
33 installment payment agreement as provided by law.

34 (C) Any person liable for any income or franchise tax or other  
35 debt referred to the Franchise Tax Board for collection as imposed  
36 under Part 5 (commencing with Section 10701), Part 10  
37 (commencing with Section 17001), ~~Part 10.2 (commencing with~~  
38 ~~Section 18401) *this part*~~, or Part 11 (commencing with Section  
39 23001), including tax, penalties, interest, and fees, where the tax  
40 or debt, including the amount, if any, referred to the Franchise Tax

1 Board for collection remains unpaid after 30 days from demand  
2 for payment by the Franchise Tax Board, and the person is not  
3 making current timely installment payments on the liability under  
4 an agreement pursuant to Section 19008.

5 (i) A financial institution shall be reimbursed by the Franchise  
6 Tax Board for actual costs incurred to ~~implement the provisions~~  
7 of this section. Upon receipt of an invoice from the financial  
8 institution, cost reimbursement by the Franchise Tax Board shall  
9 be limited to the following:

10 (1) For one-time startup costs of a financial institution, no more  
11 than two thousand five hundred dollars (\$2,500).

12 (2) For data matching costs of a financial institution, other than  
13 one-time startup costs, no more than two hundred fifty dollars  
14 (\$250) per calendar quarter.

15 (j) The first data exchange for purposes of matching tax debtor  
16 records to financial institution accountholder records shall occur  
17 no earlier than April 1, 2012.

18 (k) This section shall be operative 120 days after the effective  
19 date of ~~the act adding this section~~ *Chapter 14 of the Statutes of*  
20 *2011* and shall apply with respect to persons that are delinquent  
21 tax debtors on and after that date.

22 (1) Notwithstanding any other ~~provision~~ of law, on or after  
23 January 1, 2013, and on a quarterly basis thereafter, the board and  
24 the Employment Development Department shall, in the format  
25 and manner specified by the Franchise Tax Board, provide their  
26 respective delinquent tax debtor information to the Franchise Tax  
27 Board for inclusion in the Financial Institutions Records Match  
28 System.

29 (2) The Franchise Tax Board shall include the delinquent tax  
30 debtor information provided by the board and the Employment  
31 Development Department in its data file used to match delinquent  
32 tax debtor records to financial institution accountholder records.

33 (3) The Franchise Tax Board shall provide the board or the  
34 Employment Development Department, as applicable, with any  
35 matched financial institution accountholder record information  
36 resulting from the delinquent tax debtor information provided by  
37 the board or the Employment Development Department.

38 (4) The board and the Employment Development Department  
39 shall reimburse the Franchise Tax Board for any costs incurred by  
40 the Franchise Tax Board related to the implementation and

1 administration of this section with respect to delinquent tax debtors  
2 described in subparagraph (A) or (B), respectively, of paragraph  
3 (3) of subdivision (h).

4 *(l) The amendments to this section by the act adding this*  
5 *subdivision shall apply to information provided pursuant to this*  
6 *section before, on, and after the effective date of that act.*

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