

AMENDED IN SENATE JULY 10, 1997

AMENDED IN SENATE JUNE 30, 1997

AMENDED IN ASSEMBLY MAY 15, 1997

AMENDED IN ASSEMBLY APRIL 9, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 573

Introduced by Assembly Member Kuehl
(Coauthor: Senator McPherson)

February 25, 1997

An act to amend Section 10161.8 of the Business and Professions Code, to add Section 19271.5 to the Revenue and Taxation Code, and to add Sections 11475.1a and 11475.7 to, the Welfare and Institutions Code, relating to child support.

LEGISLATIVE COUNSEL'S DIGEST

AB 573, as amended, Kuehl. Child support: Franchise Tax Board: collection.

Existing law requires real estate brokers to immediately notify the Real Estate Commissioner whenever a real estate salesperson enters the employ of, or is terminated by, the broker.

This bill would require the Real Estate Commissioner to release that information, including the broker's name and address, and the salesperson's name, address, and social security number to the Franchise Tax Board for purposes of enforcing child support obligations.

Existing law requires the district attorney to establish, modify, and enforce child support when the child is receiving public assistance, and when appropriate, to take the same actions on behalf of a child who is not receiving public assistance. Under existing law, the district attorney may refer child support delinquencies to the Franchise Tax Board for collection.

This bill would, additionally, authorize the district attorney to refer child support obligations to the Franchise Tax Board for collection, as specified.

This bill would require any service-recipient, as defined, who makes or is required to file a federal tax information return with regard to certain payments made to a service-provider, to report specified information to the Employment Development Department regarding those payments. The bill would provide that this information may be released only for purposes of enforcing child support obligations and collections *and tax enforcement*.

The bill would make related changes.

This bill would provide that it shall become operative only if AB 1395 and SB 247 of the 1997–98 Regular Session are enacted and become effective on or before January 1, 1998.

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 10161.8 of the Business and
2 Professions Code is amended to read:
3 10161.8. (a) Whenever a real estate salesperson
4 enters the employ of a real estate broker, the broker shall
5 immediately notify the commissioner thereof in writing.
6 (b) Whenever employment of a real estate
7 salesperson is terminated, the broker shall immediately
8 notify the commissioner thereof in writing.
9 (c) Whenever a licensee acquires a business address
10 different from the address shown on his or her license he
11 or she shall mark out the former address on the face of the
12 license and type or write the new main office address in
13 ink on the reverse side, and date and initial the same.



1 (d) Whenever a real estate salesperson enters the
2 employ of a new real estate broker he or she shall mark
3 out the name of his or her former broker on the face of
4 the license and type or write the name of the new
5 employing broker in ink on the reverse side, and date and
6 initial the same.

7 (e) The commissioner shall release the information
8 reported in the notification under subdivisions (a) and
9 (b), including the real estate broker's name and address
10 and the salesperson's name, address, and social security
11 number, to the Franchise Tax Board for purposes of
12 enforcing child support obligations under Section 11475.1
13 of the Welfare and Institutions Code and for child support
14 collection purposes authorized under Article 5
15 (commencing with Section 19271) of Chapter 5 of Part
16 10.2 of Division 2 of the Revenue and Taxation Code. The
17 information released under this subdivision to the
18 Franchise Tax Board shall be on magnetic media or in
19 other machine-readable form according to standards
20 acceptable to, and as required by, the Franchise Tax
21 Board. The notification by a real estate broker under this
22 section shall satisfy that broker's reporting requirement
23 for those real estate salespersons under Section 11475.7 of
24 the Welfare and Institutions Code.

25 SEC. 2. Section 19271.5 is added to the Revenue and
26 Taxation Code, to read:

27 19271.5. (a) A county district attorney enforcing
28 child support obligations pursuant to Section 11475.1 of
29 the Welfare and Institutions Code may refer child
30 support obligations to the Franchise Tax Board to collect
31 child support payments that are not child support
32 delinquencies, as defined in this ~~article~~ *article, or past*
33 *due amounts. If a child support obligation becomes a child*
34 *support delinquency during the time the Franchise Tax*
35 *Board is administering wage withholding, then the*
36 *Franchise Tax Board shall commence collection of the*
37 *delinquency pursuant to Section 19271.*

38 (1) Referrals shall be transmitted in the form and
39 manner prescribed by the Franchise Tax Board.



1 (2) In order to manage the growth in the number of
2 referrals that it will receive, the Franchise Tax Board may
3 phase in the referrals as administratively necessary.

4 ~~(b) (1) When a child support obligation is referred to
5 the Franchise Tax Board pursuant to subdivision (a), the
6 amount of the obligation shall be collected from obligated
7 parents by the Franchise Tax Board in any manner
8 authorized under the law for collection of a personal
9 income tax liability. Any law providing for the collection
10 of a personal income tax liability shall apply to child
11 support obligations referred under this section in the
12 same manner and with the same force and effect and to
13 the full extent as if the language of those laws had been
14 incorporated in full into this section, except to the extent
15 that any provision is either inconsistent with a provision
16 of this section or is not relevant to this section.~~

17 ~~(2) Any compensation, fee, commission, expense, or
18 any other fee for service incurred by the Franchise Tax
19 Board in the collection of a child support obligation
20 authorized under this section shall not be an obligation of,
21 or collected from, the obligated parent. A referred child
22 support obligation shall be final and due and payable to
23 the State of California upon written notice to the
24 obligated parent by the Franchise Tax Board.~~

25 ~~(3) For purposes of administering this article:~~

26 ~~(A) This chapter and Chapter 7 (commencing with
27 Section 19501) shall apply, except as otherwise provided
28 by this article.~~

29 ~~(B) Any services, information, or enforcement
30 remedies available to a district attorney or the Title IV-D
31 agency in collecting support payments or locating absent
32 or nonecustodial parents shall be available to the Franchise
33 Tax Board for purposes of collecting child support
34 obligations under this article, including, but not limited
35 to, any information that may be disclosed by the
36 Franchise Tax Board to the California Parent Locator
37 Service under Section 19548.~~

38 ~~(C) A request by the Franchise Tax Board for
39 information from a financial institution shall be treated in
40 the same manner and to the same extent as a request for~~



1 ~~information from a district attorney referring to a support~~
2 ~~order pursuant to Section 11475.1 of the Welfare and~~
3 ~~Institutions Code for purposes of Chapter 20~~
4 ~~(commencing with Section 7460) of Division 7 of Title 1~~
5 ~~of the Government Code (relating to governmental~~
6 ~~access to financial records), notwithstanding any other~~
7 ~~provision of law which is inconsistent or contrary to this~~
8 ~~paragraph.~~

9 ~~(e) In the event the collection action would cause~~
10 ~~undue financial hardship to the obligated parent, would~~
11 ~~threaten the health or welfare of the obligated parent or~~
12 ~~his or her family, or would cause undue irreparable loss~~
13 ~~to the obligated parent, the obligated parent may notify~~
14 ~~the Franchise Tax Board, which shall upon being notified~~
15 ~~refer the obligated parent to the referring county district~~
16 ~~attorney, unless the Franchise Tax Board is directed~~
17 ~~otherwise by the county district attorney for purposes of~~
18 ~~more effectively administering this article.~~

19 ~~(e) (1) In no event shall a collection under this article~~
20 ~~be construed to be a payment of income taxes imposed~~
21 ~~under this part.~~

22 ~~(2) In the event an obligated parent overpays a~~
23 ~~liability imposed under this part, the overpayment shall~~
24 ~~not be credited against any obligation collected pursuant~~
25 ~~to this article. In the event an overpayment of a liability~~
26 ~~imposed under this part is offset and distributed to a~~
27 ~~referring county district attorney pursuant to Sections~~
28 ~~12419.3 and 12419.5 of the Government Code or Section~~
29 ~~708.740 of the Code of Civil Procedure, and thereby~~
30 ~~reduces the amount of the referred obligation, the~~
31 ~~referring county district attorney shall immediately~~
32 ~~notify the Franchise Tax Board of that reduction, unless~~
33 ~~otherwise directed for purposes of more effectively~~
34 ~~administering this article.~~

35 ~~(3) In no event shall the district attorney refer or the~~
36 ~~Franchise Tax Board collect under this article any~~
37 ~~obligation if all of the following circumstances exist:~~

38 ~~(A) A court has ordered an obligor to make scheduled~~
39 ~~payments on a child support obligation.~~

40 ~~(B) The obligor is in compliance with the order.~~



1 ~~(C) The order does not provide the district attorney~~
2 ~~with authority to engage in continued or additional~~
3 ~~collection activities.~~

4 ~~(f) Except as otherwise provided in this article, any~~
5 ~~child support obligation referred to the Franchise Tax~~
6 ~~Board pursuant to this section shall be treated as a child~~
7 ~~support obligation for all other purposes, and any~~
8 ~~collection action by the county district attorney or the~~
9 ~~Franchise Tax Board with respect to any obligation~~
10 ~~referred pursuant to this section shall have the same~~
11 ~~priority against attachment, execution, assignment, or~~
12 ~~other collection action as is provided by any other~~
13 ~~provision of state law.~~

14 *(b) When a child support obligation is referred to the*
15 *Franchise Tax Board pursuant to subdivision (a), or at*
16 *any time thereafter, if the obligated parent owes a*
17 *delinquent personal income tax liability, the Franchise*
18 *Tax Board shall not engage in, or shall cease, collection of*
19 *the child support obligation referred under subdivision*
20 *(a) until the delinquent personal income tax liability is*
21 *paid in full. However, the Franchise Tax Board may*
22 *engage in collection of an obligation referred under*
23 *subdivision (a) under either of the following*
24 *circumstances:*

25 *(1) The delinquent personal income tax liability is*
26 *discharged from accountability pursuant to Section 13940*
27 *of the Government Code.*

28 *(2) The obligor has entered into an installment*
29 *payment agreement for the delinquent personal income*
30 *tax liability and is in compliance with that agreement and*
31 *the Franchise Tax Board determines that collection of the*
32 *child support obligation referred under subdivision (a)*
33 *would not jeopardize the payments under the terms of*
34 *the agreement.*

35 *(c) For purposes of administering subdivision (b):*

36 *(1) "Collection of child support obligation" means*
37 *administering wage withholding pursuant to Chapter 8*
38 *(commencing with Section 5200) of Part 5 of Division 9*
39 *of the Family Code or Section 3088 of the Probate Code,*



1 *that requires an employer to withhold earnings for*
2 *support.*

3 (2) *“Delinquent personal income tax liability” means*
4 *any taxes, additions to tax, penalties, interest, fees, or*
5 *other related amounts due and payable under Part 10*
6 *(commencing with Section 17001) or this part.*

7 (d) *Any services or information available to a district*
8 *attorney or the Title IV-D agency in collecting child*
9 *support obligations or locating absent or noncustodial*
10 *parents shall be available to the Franchise Tax Board for*
11 *purposes of collecting child support obligations under this*
12 *section, including, but not limited to, any information*
13 *that may be disclosed by the Franchise Tax Board to the*
14 *California Parent Locator Service under Section 19548.*

15 SEC. 3. Section 11475.1a is added to the Welfare and
16 Institutions Code, to read:

17 11474.1a. (a) The district attorney may refer child
18 support obligations that are not delinquent, *or past due*
19 *amounts*, to the Franchise Tax Board pursuant to Section
20 19271.5 of the Revenue and Taxation Code.

21 (b) The district attorney is the public agency
22 responsible for administering wage withholding for the
23 purposes of Title IV-D of the Social Security Act (42
24 U.S.C. Sec. 651 et seq.). To enhance child support
25 enforcement, the district attorney may delegate this
26 responsibility to the Franchise Tax Board for purposes of
27 collecting child support payments that are not
28 delinquent, *or past due amounts*, as authorized under
29 subdivision (a) of Section 19271.5 of the Revenue and
30 Taxation Code.

31 Nothing in this section shall limit the authority of the
32 district attorney granted by other sections of this code or
33 otherwise granted by law, except to the extent that the
34 law is inconsistent with the authority to refer child
35 support accounts to the Franchise Tax Board for
36 collection pursuant to Section 19271.5 of the Revenue and
37 Taxation Code.

38 SEC. 4. Section 11475.7 is added to the Welfare and
39 Institutions Code, to read:



1 11475.7. (a) Any service-recipient, as defined in
 2 subdivision (b), who makes or is required to make a
 3 return to the Internal Revenue Service, in accordance
 4 with Section 6041A(a) of the Internal Revenue Code
 5 (relating to payments made to a service-provider as
 6 compensation for services) shall file with the
 7 Employment Development Department information as
 8 required under subdivision (c).

9 (b) For purposes of this section:

10 (1) "Service-recipient" means any individual, person,
 11 corporation, association, or partnership, or agent thereof,
 12 doing business in this state, deriving income from sources
 13 within this state, or in any manner whatsoever subject to
 14 the laws of this state. "Service-recipient" also includes,
 15 the State of California or any political subdivision thereof,
 16 including the Regents of the University of California, any
 17 city organized under a freeholder's charter, or any
 18 political body not a subdivision or agency of the state, and
 19 any person, employee, department, or agent thereof.

20 (2) "Service-provider" means an individual who is not
 21 an employee of the service-recipient for California
 22 purposes and who receives compensation or executes a
 23 contract for services performed for that service-recipient
 24 within or without the state.

25 (c) (1) Each service-recipient shall report all of the
 26 following information to the Employment Development
 27 Department, within 30 days of the earlier of first making
 28 payments of six hundred dollars (\$600) or more in any
 29 year to a service-provider, or entering into a contract or
 30 contracts with a service-provider providing for payments
 31 of six hundred dollars (\$600) or more in any year:

32 (A) The first initial, last name, and social security
 33 number of the service-provider.

34 (B) The service-recipient's name, address, telephone
 35 number, and identifying number, such as a federal
 36 employer identification number, state employer
 37 identification number, State Board of Equalization
 38 identification number, or Secretary of State assigned
 39 corporation number.



1 (C) The date the contract is executed, or if no
2 contract, the date payments first total six hundred dollars
3 (\$600) or more.

4 (D) The total dollar amount of the contract, if any, and
5 the contract expiration date.

6 (2) Notification to the Real Estate Commissioner
7 under subdivisions (a) and (b) of Section 10161.8 of the
8 Business and Professions Code shall satisfy the reporting
9 requirement of real estate brokers under this section
10 relating to those real estate salespersons.

11 (d) The Employment Development Department
12 shall retain information collected pursuant to this section
13 until November 1 following the tax year in which the
14 contract is executed, or if no contract, the tax year in
15 which the payments first total six hundred dollars (\$600)
16 or more.

17 (e) Information obtained by the Employment
18 Development Department pursuant to this section may
19 be released only for purposes of enforcing child support
20 obligations under Section 11475.1 and for child support
21 collection purposes authorized under Article 5
22 (commencing with Section 19271) of Chapter 5 of Part
23 10.2 of the Revenue and Taxation Code, *or to the*
24 *Franchise Tax Board for tax enforcement purposes.*

25 ~~SEC. 4.—~~

26 SEC. 5. This act shall become operative only if
27 Assembly Bill 1395 and Senate Bill 247, both of the 1997-98
28 Regular Session, are enacted and become effective on or
29 before January 1, 1998.

