

CHAPTER 193

PROPERTY

HOUSE BILL 97-1052

BY REPRESENTATIVE Swenson;
also SENATOR Schroeder.

AN ACT

CONCERNING PROVISION OF DELINQUENT TAX INFORMATION TO LENDING INSTITUTIONS, AND, IN CONNECTION THEREWITH, ESTABLISHING THE TAX DELINQUENCY NOTIFICATION FUND, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 38-25.5-101 (1), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

38-25.5-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Authorized person" means:

(a) A person who has obtained a written authorization signed and notarized by a taxpayer to receive a certificate of taxes due for the taxpayer, to receive copies of tax returns and filings by the taxpayer with a public entity, to receive a summary statement of tax payments made to any public entity by the taxpayer, or all of the above, to the degree set forth in the authorization. The authorization may be a signed original or a copy thereof and may be a separate document or part of a more general document; OR

(b) A LENDING INSTITUTION THAT HAS OBTAINED WRITTEN AUTHORIZATION FROM A BORROWER TO RECEIVE NOTIFICATION FROM THE DEPARTMENT OF REVENUE WHEN THE BORROWER IS DELINQUENT IN THE PAYMENT OF SALES AND USE TAXES, SPECIAL FUEL TAXES, WITHHOLDING TAXES, GAS TAXES, OR AVIATION FUEL TAXES. THE AUTHORIZATION MAY BE A SIGNED AND DATED ORIGINAL OR A COPY THEREOF AND MAY BE A SEPARATE DOCUMENT OR PART OF A MORE GENERAL DOCUMENT.

SECTION 2. Article 25.5 of title 38, Colorado Revised Statutes, 1982 Repl. Vol.,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

38-25.5-103.5. Notification requirements - tax delinquency notification fund - creation - immunity. (1) THE DEPARTMENT OF REVENUE SHALL PROVIDE INFORMATION TO ANY LENDING INSTITUTION THAT IS AN AUTHORIZED PERSON REGARDING THE DELINQUENT PAYMENT OF SALES AND USE TAX, WITHHOLDING TAX, SPECIAL FUELS TAX, GAS TAX, OR AVIATION FUEL TAX BY A BORROWER OF FUNDS FROM SUCH INSTITUTION PROVIDED SUCH DELINQUENCY IS IN DISTRAINT WARRANT STAGE. THE DEPARTMENT SHALL HONOR ANY REQUEST MADE BY A LENDING INSTITUTION THAT IS AN AUTHORIZED PERSON TO THE EXTENT SET FORTH IN THE WRITTEN AUTHORIZATION. SUCH PROVISION OF INFORMATION SHALL BE MADE IN ACCORDANCE WITH RULES PROMULGATED BY THE DEPARTMENT, WHICH SHALL INCLUDE THE FOLLOWING:

(a) THE PROCEDURES PURSUANT TO WHICH LENDING INSTITUTIONS MAY REQUEST NOTIFICATION UNDER THIS SECTION, WHEN SUCH NOTIFICATION WILL BE PROVIDED BY THE DEPARTMENT, AND THE MANNER IN WHICH SUCH INFORMATION SHALL BE PROVIDED;

(b) THE AMOUNT OF THE FILING FEE NEEDED TO COVER PROGRAMMING AND OTHER ADMINISTRATIVE COSTS, WHICH MAY BE ADJUSTED PERIODICALLY BY THE DEPARTMENT AND NOT NECESSARILY AT THE BEGINNING OF THE YEAR;

(c) THE LEVEL, TYPE, OR DEGREE OF DELINQUENCY SUBJECT TO THE DISCLOSURE PROVIDED BY THIS SECTION;

(d) ANY OTHER INFORMATION NEEDED FOR THE IMPLEMENTATION OF THIS SECTION.

(2) THE LEVEL, TYPE, OR DEGREE OF DELINQUENCY SUBJECT TO THE DISCLOSURE PROVIDED BY THIS SECTION SHALL BE SET BY THE DEPARTMENT OF REVENUE.

(3) THE DEPARTMENT SHALL TRANSMIT ANY FILING FEES COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO SHALL DEPOSIT SUCH FEES IN THE STATE TREASURY IN THE TAX DELINQUENCY NOTIFICATION FUND, WHICH FUND IS HEREBY CREATED. MONEYS SO DEPOSITED AND ALL INTEREST EARNED ON SUCH MONEYS SHALL BE RETAINED IN THE FUND.

SECTION 3. 38-25.5-105, Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

38-25.5-105. Department of revenue fees. EXCEPT AS PROVIDED IN SECTION 38-25.5-103.5, fees collected by the department of revenue pursuant to this article shall be deposited in the state treasury in the tax lien certification fund which is hereby created. Moneys so deposited and all interest earned on such moneys shall be used by the department of revenue for the purposes of this article in accordance with the annual appropriation by the general assembly and shall not be deposited in or transferred to the general fund.

SECTION 4. Loan authorized. For the purpose of implementing this act prior to sufficient moneys becoming available in the tax delinquency notification fund created in section 38-25.5-103.5 (2), Colorado Revised Statutes, the department of

revenue is authorized to borrow twenty thousand two hundred twenty-five dollars (\$20,225) from the general fund during the fiscal year beginning July 1, 1997, and said moneys shall be transferred and credited to the tax delinquency notification fund. As moneys become available to the tax delinquency notification fund, any moneys borrowed from the general fund shall be repaid from the tax delinquency notification fund.

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the tax delinquency notification fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 1997, the sum of twenty thousand two hundred twenty-five dollars (\$20,225), or so much thereof as may be necessary, for the implementation of this act.

SECTION 6. Effective date. This act shall take effect July 1, 1997.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 27, 1997