

Chapter 19.265 RCW
TAX REFUND ANTICIPATION LOANS

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RCW 19.265.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Borrower" means a taxpayer who receives the proceeds of a refund anticipation loan.

(2) "Department" means the department of financial institutions.

(3) "Director" means the director of the department of financial institutions.

(4) "Facilitator" means a person who receives or accepts for delivery an application for a refund anticipation loan, delivers a check in payment of refund anticipation loan proceeds, or in any other manner acts to allow the making of a refund anticipation loan.

"Facilitator" does not include a bank, thrift, savings association, industrial bank, or credit union, operating under the laws of the United States or this state, an affiliate that is a servicer for such an entity, or any person who acts solely as an intermediary and does not deal with a taxpayer in the making of the refund anticipation loan.

(5) "Lender" means a person who extends credit to a borrower in the form of a refund anticipation loan.

(6) "Person" means an individual, a firm, a partnership, an association, a corporation, or other entity.

(7) "Refund anticipation loan" means a loan borrowed by a taxpayer from a lender based on the taxpayer's anticipated federal income tax refund.

(8) "Refund anticipation loan fee" means the charges, fees, or other consideration imposed by the lender for a refund anticipation loan. This term does not include any charge, fee, or other consideration usually imposed by the facilitator in the ordinary course of business for nonloan services, such as fees for tax return preparation and fees for electronic filing of tax returns.

(9) "Refund anticipation loan fee schedule" means a listing or table of refund anticipation loan fees charged by the facilitator or the lender for three or more representative refund anticipation loan amounts. The schedule shall list separately each fee or charge imposed, as well as a total of all fees imposed, related to the making of refund anticipation loans. The schedule shall also include, for each representative loan amount, the estimated annual percentage rate calculated under the guidelines established by the federal truth in lending act, 15 U.S.C. Sec. 1601 et seq.

(10) "Taxpayer" means an individual who files a federal income tax return. [2005 c 471 § 2.]

RCW 19.265.020 Registration of facilitators. (1) No person may individually, or in conjunction or cooperation with another person act as a facilitator unless that person is:

(a) A tax preparer or works for a person that engages in the business of tax preparation;

(b) Accepted by the internal revenue service as an authorized IRS e-file provider; and

(c) Registered with the department as a facilitator. The director may prescribe the registration form.

(2) A person is registered as a facilitator by providing the department, on or before December 31st of each year with:

(a) A list of authorized IRS e-file providers in the state of Washington for the current tax filing year; and

(b) A thirty-five dollar processing fee for each authorized e-file provider on the list.

(3) After the December 31st deadline, a facilitator may amend the registration required in subsection (2) of this section to reflect additions or deletions of office locations or e-file providers authorized by the internal revenue service.

(4) The department shall make available to the public a list of all facilitators registered under this section.

(5) This section does not apply to a person doing business as a bank, thrift, savings association, industrial bank, or credit union, operating under the laws of the United States or this state, an affiliate that is a servicer for such an entity, or any person who acts solely as an intermediary and does not deal with a taxpayer in the making of the refund anticipation loan.

(6) This chapter shall preempt and be exclusive of all local acts, statutes, ordinances, and regulations relating to refund anticipation loans. This subsection shall be given retroactive and prospective effect. [2005 c 471 § 3.]

RCW 19.265.030 Required disclosure. (1) For all refund anticipation loans, a facilitator must provide clear disclosure to the borrower prior to the borrower's completion of the application. The disclosure must contain the following:

(a) The refund anticipation loan fee schedule; and

(b) A written statement, in a minimum of ten-point type, containing the following elements:

(i) That a refund anticipation loan is a loan, and is not the borrower's actual income tax refund;

(ii) That the taxpayer can file an income tax return electronically without applying for a refund anticipation loan;

(iii) The average times according to the internal revenue service within which a taxpayer who does not obtain a refund anticipation loan can expect to receive a refund if the taxpayer's return is (A) filed electronically and the refund is directly deposited to the taxpayer's bank account or mailed to the taxpayer, and (B) mailed to the internal revenue service and the refund is directly deposited to the taxpayer's bank account or mailed to the taxpayer;

(iv) That the internal revenue service does not guarantee that it will pay the full amount of the anticipated refund and it does not guarantee a specific date that a refund will be deposited into a taxpayer's financial institution account or mailed to a taxpayer;

(v) That the borrower is responsible for repayment of the loan and related fees in the event that the tax refund is not paid or paid in full;

(vi) The estimated time within which the loan proceeds will be paid to the borrower if the loan is approved;

(vii) The fee that will be charged, if any, if the borrower's loan is not approved; and

(viii) The borrower's right to rescind the refund anticipation loan transaction as provided in RCW 19.265.040.

(2) The following additional information must be provided to the borrower of a refund anticipation loan before consummation of the loan transaction:

(a) The estimated total fees for obtaining the refund anticipation loan; and

(b) The estimated annual percentage rate for the borrower's refund anticipation loan, using the guidelines established under the federal truth in lending act (15 U.S.C. Sec. 1601 et seq.). [2005 c 471 § 4.]

RCW 19.265.040 Borrower may rescind loan—Manner. A borrower may rescind a loan, on or before the close of business on the next day of business, by either returning the original check issued for the loan or providing the amount of the loan in cash to the lender or the facilitator. The facilitator may not charge the borrower a fee for rescinding the loan or a refund anticipation loan fee if the loan is rescinded but may charge the borrower the administrative cost of establishing a bank account to electronically receive the refund. [2005 c 471 § 5.]

RCW 19.265.050 Facilitators—Unlawful activities. It is unlawful for a facilitator of a refund anticipation loan to engage in any of the following activities:

(1) Misrepresent a material factor or condition of a refund anticipation loan;

(2) Fail to process the application for a refund anticipation loan promptly after the consumer applies for the loan;

(3) Engage in any dishonest, fraudulent, unfair, unconscionable, or unethical practice or conduct in connection with a refund anticipation loan;

(4) Arrange for a creditor to take a security interest in any property of the consumer other than the proceeds of the consumer's tax refund and the account into which that tax refund is deposited to secure payment of the loan; and

(5) Offer a refund anticipation loan that, including any refund anticipation loan fee or any other fee related to the loan or tax preparation, exceeds the amount of the anticipated tax refund. [2005 c 471 § 6.]

RCW 19.265.060 Violation of chapter—Penalty. Any person who knowingly and willfully violates this chapter is guilty of a misdemeanor and shall be fined up to five hundred dollars for each offense. [2005 c 471 § 7.]

RCW 19.265.070 Finding—Application of chapter 19.86 RCW. The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW. [2005 c 471 § 8.]

RCW 19.265.900 Short title. This chapter may be known and cited as the tax refund anticipation loan act. [2005 c 471 § 1.]