
**Insurance, Financial Services &
Consumer Protection Committee**

HB 3098

Brief Description: Addressing facilitators of refund anticipation loans.

Sponsors: Representatives Santos, Roach and Kelley.

Brief Summary of Bill

- Excludes retailers who act only as distributors and collectors of information for a facilitator of refund anticipation loans from those who are required to register with the Department of Financial Institutions as facilitators.
- Requires registered facilitators to establish policies and procedures for retailers acting as distributors or collectors of information related to refund anticipation loans.

Hearing Date: 1/30/08

Staff: Alison Hellberg (786-7152).

Background:

A refund anticipation loan (RAL) is a loan borrowed by a taxpayer from a lender based on the taxpayer's anticipated federal income tax refund. A person may not act as a facilitator of a RAL unless that person is a tax preparer, accepted by the Internal Revenue Services (IRS) as an authorized IRS electronic file (e-file) provider, and registered with the Department of Financial Institutions (DFI) as a facilitator.

For all RAL's, a facilitator is required to disclose the RAL fee schedule to the borrower as well as provide a written statement, in a minimum of 10-point type, containing the following disclosures:

- a RAL is a loan, and is not the borrower's actual income tax refund;
- the average time according to the IRS within which a taxpayer who does not obtain a RAL can expect to receive a refund;

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- the IRS 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;
- 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;
- the estimated time within which the loan proceeds will be paid to the borrower if the loan is approved;
- the fee that will be charged, if any, if the borrower's loan is not approved; and
- the borrower's right to rescind the RAL.

Additionally, the following information must be provided to the borrower of a RAL before consummation of the loan transaction:

- the estimated total fees for obtaining the RAL; and
- the estimated annual percentage rate for the borrower's RAL, using the guidelines established under the federal Truth in Lending Act.

The facilitator of a RAL is guilty of a misdemeanor if he or she:

- misrepresents a material factor or condition of a refund anticipation loan;
- fails to process the application for a RAL promptly after the consumer applies for the loan;
- engages in any dishonest, fraudulent, unfair, unconscionable, or unethical practice or conduct in connection with a RAL;
- arranges 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
- offers a RAL that, including any RAL fee or any other fee related to the loan or tax preparation, exceeds the amount of the anticipated tax refund.

A violation of any of these provisions is also a violation of the Consumer Protection Act.

Summary of Bill:

A retailer who acts only as a distributor and collector of information or materials for a facilitator is not required to register with the Department as a RAL facilitator. A registered facilitator must establish policies and procedures to ensure that the retailer:

- appropriately safeguards and protects an applicant's personal private financial information;
- acts solely in a clerical role; and
- does not provide any counseling regarding RAL products.

The Director of the Department has authority to adopt rules to implement these provisions.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.