
SENATE BILL 5692

State of Washington

59th Legislature

2005 Regular Session

By Senators Berkey, Benton, Prentice and Keiser

Read first time 02/02/2005. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1 AN ACT Relating to tax refund anticipation loans; adding a new
2 chapter to Title 19 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
5 tax refund anticipation loan act.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Facilitator" means a person who receives or accepts for
9 delivery an application for a refund anticipation loan, delivers a
10 check in payment of refund anticipation loan proceeds, or in any other
11 manner acts to allow the making of a refund anticipation loan.
12 "Facilitator" does not include a bank, thrift, savings association,
13 industrial bank, or credit union operating under the laws of the United
14 States or this state, an affiliate that is a servicer for such an
15 entity, or any person who acts solely as an intermediary and does not
16 deal with a taxpayer in the making of the refund anticipation loan.

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

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

3 (4) "Taxpayer" means an individual who files a federal income tax
4 return.

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

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

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

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

25 NEW SECTION. **Sec. 3.** At the time a borrower applies for a refund
26 anticipation loan, a facilitator shall clearly disclose to the
27 borrower, separately from the loan application:

28 (1) The refund anticipation loan fee schedule;

29 (2) A written statement containing the following elements:

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

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

34 (c) The average times according to the internal revenue service
35 within which a taxpayer who does not obtain a refund anticipation loan
36 can expect to receive a refund if the taxpayer's return is (i) filed
37 electronically and the refund is directly deposited to the taxpayer's

1 bank account or mailed to the taxpayer, and (ii) mailed to the internal
2 revenue service and the refund is directly deposited to the taxpayer's
3 bank account or mailed to the taxpayer;

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

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

11 (f) The estimated time within which the loan proceeds will be paid
12 to the borrower if the loan is approved; and

13 (g) The fee that will be charged, if any, if the borrower's loan is
14 not approved.

15 NEW SECTION. **Sec. 4.** Any person who knowingly and willfully
16 violates this chapter is guilty of a misdemeanor and shall be fined up
17 to five hundred dollars for each offense.

18 NEW SECTION. **Sec. 5.** This chapter shall preempt and be exclusive
19 of all local acts, statutes, ordinances, and regulations relating to
20 refund anticipation loans. This section shall be given retroactive and
21 prospective effect.

22 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
23 a new chapter in Title 19 RCW.

--- END ---