



Senate

General Assembly

File No. 550

February Session, 2004

Substitute Senate Bill No. 476

Senate, April 13, 2004

The Committee on Banks reported through SEN. FINCH of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING INCOME TAX REFUND ANTICIPATION LOAN DISCLOSURES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) (a) As used in this
2 section:

3 (1) "Borrower" means a person who receives the proceeds of a
4 refund anticipation loan;

5 (2) "Facilitator" means a person who, individually, or in conjunction
6 or cooperation with another person, makes a refund anticipation loan,
7 processes, receives or accepts for delivery an application for a refund
8 anticipation loan, issues a check in payment of refund anticipation loan
9 proceeds, or in any other manner acts to allow the making of a refund
10 anticipation loan. The term does not include a bank, savings and loan
11 association, credit union or person issued a license under the
12 provisions of sections 36a-555 to 36a-573, inclusive, of the general

13 statutes, operating under the laws of the United States or this state, or
14 any person who acts solely as an intermediary and does not deal with
15 the public in the making of a refund anticipation loan;

16 (3) "Refund anticipation loan" means a loan arranged to be paid
17 directly from the proceeds of a borrower's income tax refund; and

18 (4) "Refund anticipation loan fee" means any charges, fees or other
19 consideration charged or imposed for the making of a refund
20 anticipation loan. The term does not include any charges, fees or other
21 consideration charged or imposed in the ordinary course of business
22 by a facilitator for services that do not result in the making of a loan
23 including, but not limited to, fees for tax return preparation services or
24 for the electronic filing of income tax returns.

25 (b) At the time a borrower applies for a refund anticipation loan, a
26 facilitator shall disclose to such borrower on a document that is
27 separate from the loan application:

28 (1) The estimated fee for preparing and electronically filing an
29 income tax return;

30 (2) The refund anticipation loan fee schedule;

31 (3) The annual percentage rate utilizing the guidelines established
32 by the official staff interpretations of federal Regulation Z to the Truth
33 in Lending Act, 12 CFR, Part 226;

34 (4) The estimated total cost to the borrower for utilizing a refund
35 anticipation loan;

36 (5) The estimated number of days within which the loan proceeds
37 shall be paid to the borrower if the loan is approved;

38 (6) The borrower is responsible for repayment of the loan and
39 related fees in the event the income tax refund is not paid or not paid
40 in full; and

41 (7) The availability of electronic filing of the income tax return of the

42 borrower and the average time announced by the Internal Revenue
43 Service within which the borrower can expect to receive a refund if the
44 borrower's return is electronically filed and the borrower does not
45 obtain a refund anticipation loan.

46 (c) Any facilitator who violates any provision of subsection (b) of
47 this section shall be fined five hundred dollars for each such violation.
48 Any facilitator who violates any provision of said subsection shall be
49 liable to any aggrieved borrower in an amount equal to three times the
50 amount of the refund anticipation loan fee, plus reasonable attorney's
51 fees, in a civil action brought by the aggrieved borrower or by the
52 Attorney General on behalf of the aggrieved borrower.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>

BA *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Consumer Protection, Dept.	GF - None	None	None
Resources of the General Fund	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires facilitators of income tax refund anticipation loans to disclose certain facts when a borrower applies for the loan. Under the bill violators are subject to a criminal penalty of \$500 for each violation, therefore it is anticipated that the General Fund will potentially experience a minimal revenue gain. The bill has no fiscal impact on the Department of Consumer Protection.

OLR Bill Analysis

sSB 476

**AN ACT CONCERNING INCOME TAX REFUND ANTICIPATION
LOAN DISCLOSURES****SUMMARY:**

This bill requires refund anticipation loan facilitators to disclose certain facts when a borrower applies for the loan. It defines "refund anticipation loan" as a loan arranged to be paid directly from the proceeds of the borrower's income tax refund.

The bill subjects violators to a criminal penalty and civil liability.

EFFECTIVE DATE: October 1, 2004

DISCLOSURES

The bill requires a facilitator to disclose, when the borrower is making the loan application on a document that is separate from the application:

1. the estimated fee for preparing and electronically filing a tax return,
2. the refund anticipation loan fee schedule,
3. the annual percentage rate (APR) using guidelines established by official staff interpretations of Regulation Z of the federal Truth in Lending Act,
4. the estimated total cost to the borrower for the refund anticipation loan,
5. the estimated number of days within which the loan will be paid if the borrower's application is approved,
6. that the borrower must repay the loan and related fees if the tax refund is not paid or not paid in full, and
7. that electronic filing is available and the average time the Internal Revenue Service says a consumer can expect to receive a refund if the return is filed electronically and the borrower does not obtain an anticipation loan.

It defines "refund anticipation loan fees" as all charges, fees, or other consideration charged or imposed for making a refund anticipation

loan. The term does not include charges, fees, or other consideration charged or imposed in the ordinary course of business by a facilitator for services that do not result in making a loan, such as fees for tax preparation services or for filing tax returns electronically.

Under the bill, a “facilitator” means the person who, acting alone or in conjunction with another, (1) makes the loan; (2) processes, receives, or accepts for delivery an application; (3) issues a check in payment of a loan; or (4) in any other way facilitates a refund anticipation loan. The bill specifies that the term does not include a bank, savings and loan association, credit union, or a person licensed under the state small loan lender law that operates under state or federal law, or a person who acts solely as an intermediary and does not deal with the public.

PENALTIES

The bill subjects a violator to a \$500 criminal penalty for each violation. It makes facilitators liable to the aggrieved borrower for three times the amount of the refund anticipation loan fee, plus reasonable attorney’s fees. The bill allows suits to be brought by aggrieved borrowers or by the attorney general on behalf of aggrieved borrowers.

BACKGROUND

Regulation Z

The Board of Governors of the Federal Reserve System issued Regulation Z to implement the Truth in Lending Act. Its purpose is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. Among other things, it requires the APR to be calculated and expressed in a standard way.

Legislative History

The Senate referred the bill (File 90) to the Banks Committee on March 24. The committee favorably reported a substitute bill on March 31 that replaced the original bill, which (1) required written notice to potential borrowers that the loan is subject to fees, interest, and other charges and the possibility of additional interest charges and (2) made a violation an unfair trade practice.

COMMITTEE ACTION

General Law Committee

Joint Favorable Report
Yea 19 Nay 0

Banks Committee

Joint Favorable Substitute
Yea 18 Nay 0