

Legislative Analysis



TAX REFUND ANTICIPATION LOANS

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House Bill 4645

Sponsor: Rep. Steve Tobocman

Committee: Banking and Financial Services

Complete to 1-28-08

A REVISED SUMMARY OF HOUSE BILL 4645 AS INTRODUCED 4-24-07

The bill would extend provisions of the Regulatory Loan Act so that they would apply to "refund anticipation loans." Refund anticipation loans are short-term loans that are secured by a taxpayer's expected tax refund. In general, the act regulates persons who engage in the business of making loans and requires lenders, unless otherwise exempted, to be licensed under the act or the Consumer Financial Services Act.

The current definition of "loan" contained in the act would be expanded to include a refund anticipation loan. A "refund anticipation loan" or RAL would be defined as a loan that a person arranged to be repaid directly from the proceeds of a taxpayer's federal or state personal income tax refund.

The bill would require certain actions on the part of a loan facilitator and lender when making a refund anticipation loan. "Facilitator" would mean a person that individually or in conjunction with another person processed, received, or accepted for delivery an application for a refund anticipation loan or a check in payment of RAL proceeds or in any other manner materially facilitated the making of a RAL. The term would not include persons exempted in Section 20 of the act (in general, depository institutions and business transacted under a pawnbroker's license); a person certified, registered, or licensed to engage in the practice of public accounting; and a person that acts solely as an intermediary and does not deal with a taxpayer in the making of a RAL.

Before a taxpayer completed an application for a RAL, the facilitator would have to clearly disclose certain information in writing on a separate form and in the primary language understood by the taxpayer. Among the information required to be disclosed would be the following:

- That the RAL is a loan and not the taxpayer's actual personal income tax refund.
- Application loan fees and the annual percentage rates charged by the facilitator or lender for at least three representative RAL amounts.
- That electronic filing of a tax return is available without applying for a RAL.
- The average time for refunds if a RAL was not applied for, as specified in the bill.
- That the amount of the anticipated tax refund may not be the actual amount refunded by the IRS or state Department of Treasury.
- The estimated time for a loan to be approved and the proceeds paid to the taxpayer.

- Fees charged to the taxpayer even if the loan was not approved.

Before entering into a RAL agreement, the facilitator would also have to disclose the estimated total fees for the loan and the estimated annual percentage rate for the loan.

In addition, the act requires a licensee to annually file a report with the commissioner of the Office of Financial and Insurance Services (OFIS), on a form provided by the commissioner, stating the licensee's volume and type of business activities for the immediately preceding calendar year. All reports have to be made under oath and must be in the form prescribed by the commissioner. The bill would require that, as part of this report, each lender and facilitator disclose for the preceding calendar year the number and dollar amount of RALs made, the average RAL, and the average time to dispense loan proceeds. As used in this provision, "lender" would mean a person that makes a RAL but would not include a person described in Section 20 (in general, depository institutions and business transacted under a pawnbroker's license).

Lastly, the bill would prohibit a political subdivision of the state (city, township, etc.) from adopting any rule, regulation, code, or ordinance to restrict or limit any of the bill's provisions relating to RALs. Further, the bill's provisions would supersede and preempt any rule, regulation, code, or ordinance of a local unit relating to RALs.

MCL 493.1 and proposed 493.16

FISCAL IMPACT:

House Bill 4645 would add to the regulatory responsibilities of the Office of Financial and Insurance Services (OFIS) by requiring it to regulate providers of refund anticipation loans. These new responsibilities would increase the administrative costs of OFIS, which would be covered by the revenue generated through an investigation fee on initial applicants, an annual operating fee based on the amount of loans issued, a nominal fee to amend an existing license, as well as revenue from civil fines imposed for violations of the act. There currently is no information available on the number of RAL providers currently in Michigan, the expected number of providers that would be licensed under the act, or the necessary staffing requirements of OFIS.

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