

**SUBSTITUTE FOR
HOUSE BILL NO. 4166**

A bill to require disclosure of certain information in connection with refund anticipation loans; and to prescribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "refund anticipation loan disclosure act".

3 Sec. 3. As used in this act:

4 (a) "Annual percentage rate" means the rate as computed under
5 the federal truth in lending act, 15 USC 1601 to 1667f.

6 (b) "Facilitator" means a person that individually or in
7 conjunction or cooperation with another person processes, receives,
8 or accepts for delivery an application for a refund anticipation
9 loan or a check in payment of refund anticipation loan proceeds or
10 in any other manner materially facilitates the making of a refund

1 anticipation loan. The term does not include any of the following:

2 (i) A financial institution.

3 (ii) An affiliate that is a servicer for a financial
4 institution.

5 (iii) A person certified, registered, or licensed to engage in
6 the practice of public accounting under article 7 of the
7 occupational code, 1980 PA 299, MCL 339.720 to 339.736.

8 (c) "Financial institution" means a state or nationally
9 chartered bank or a state or federally chartered savings and loan
10 association, savings bank, or credit union.

11 (d) "Lender" means a person that makes a refund anticipation
12 loan.

13 (e) "Person" means an individual, partnership, association,
14 corporation, limited liability company, or other legal entity.

15 (f) "Refund anticipation loan" means an extension of credit to
16 a taxpayer that a person arranges to be repaid directly from the
17 proceeds of the taxpayer's federal or state personal income tax
18 refund.

19 (g) "Refund anticipation loan fee" means the charges, fees, or
20 other consideration charged or imposed by a person acting as a
21 lender or facilitator for the making of a refund anticipation loan.
22 The term does not include any charge, fee, or other consideration
23 usually charged or imposed by a facilitator in the ordinary course
24 of business for tax return preparation, electronic filing of tax
25 returns, or other nonloan services.

26 (h) "Taxpayer" means an individual who files a federal or
27 Michigan personal income tax return.

1 Sec. 5. Before a taxpayer completes an application for a
2 refund anticipation loan, the facilitator shall clearly disclose
3 all of the following in writing to the taxpayer on a form separate
4 from the application:

5 (a) A listing or table of refund anticipation loan fees and
6 the annual percentage rates charged by the facilitator or lender
7 for 3 or more representative refund anticipation loan amounts. For
8 each refund anticipation loan amount, the schedule shall list
9 separately the amount of each fee and the amount of interest
10 charged by the facilitator or lender and the total amount of fees
11 and interest charged.

12 (b) That the refund anticipation loan is an extension of
13 credit and not the taxpayer's actual personal income tax refund.

14 (c) That electronic filing of the taxpayer's tax return is
15 available without applying for a refund anticipation loan.

16 (d) The average time announced by the appropriate taxing
17 authority within which the taxpayer can expect to receive a refund
18 if the taxpayer does not obtain a refund anticipation loan and the
19 taxpayer's return is filed using either of the following methods:

20 (i) Electronically and the refund is directly deposited in the
21 taxpayer's bank account.

22 (ii) By mail and the refund is directly deposited in the
23 taxpayer's bank account or mailed to the taxpayer.

24 (e) That the internal revenue service with respect to a
25 federal personal income tax return, or the department of treasury
26 with respect to a Michigan personal income tax return, does not
27 guarantee either of the following:

1 (i) That the full amount of the anticipated refund will be
2 paid.

3 (ii) A specific date on which the taxpayer will receive the
4 refund.

5 (f) That the taxpayer is responsible for repayment of the
6 refund anticipation loan and related fees in the event the tax
7 refund is not paid or is not paid in full.

8 (g) The estimated time within which the proceeds of the refund
9 anticipation loan will be paid to the taxpayer if the loan is
10 approved.

11 (h) The fees charged by the facilitator or lender if the
12 refund anticipation loan is not approved.

13 Sec. 7. Before entering into a refund anticipation loan
14 agreement, the facilitator shall clearly disclose both of the
15 following to the taxpayer:

16 (a) The estimated total fees for the refund anticipation loan.

17 (b) The estimated annual percentage rate for the refund
18 anticipation loan.

19 Sec. 9. A person, including, but not limited to, a facilitator
20 or a member, officer, director, agent, or employee of a
21 facilitator, that violates or participates in a violation of this
22 act is guilty of a misdemeanor punishable by a fine of not more
23 than \$500.00 or imprisonment for not more than 93 days, or both.

24 Sec. 11. A political subdivision of this state shall not adopt
25 any rule, regulation, code, or ordinance to restrict or limit any
26 requirements under this act relating to refund anticipation loans.
27 This act supersedes and preempts any rule, regulation, code, or

1 ordinance of any political subdivision of this state any
2 requirements under this act relating to refund anticipation loans.

3 Enacting section 1. This act does not take effect unless House
4 Bill No. 4607 of the 95th Legislature is enacted into law.