



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2844

Introduced 1/20/2006, by Sen. Jeffrey M. Schoenberg

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2XX new
815 ILCS 177/Act rep.

Amends the Consumer Fraud and Deceptive Business Practices Act. Makes it an unlawful practice within the meaning of the Act for a facilitator to directly or indirectly charge a refund anticipation loan fee for the making of or in connection with a refund anticipation loan when: (i) the refund anticipation loan is issued to a borrower who is eligible to receive the Illinois Earned Income Tax Credit under Section 12 of the Illinois Income Tax Act; and (ii) the refund anticipation loan has an interest rate in excess of 26% per annum. Sets out disclosure requirements for the facilitator. Provides a formula for calculating the interest rate for a refund anticipation loan. Repeals the Tax Refund Anticipation Loan Disclosure Act.

LRB094 16498 LCT 51759 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by adding Section 2XX as follows:

6 (815 ILCS 505/2XX new)

7 Sec. 2XX. Refund anticipation loans.

8 (a) As used in this Section:

9 "Facilitator" means a person who individually or in
10 conjunction or cooperation with another person makes a
11 refund anticipation loan, processes, receives, or accepts
12 for delivery an application for a refund anticipation loan,
13 issues a check in payment of refund anticipation loan
14 proceeds, or in any other manner acts to allow the making
15 of a refund anticipation loan. "Facilitator" does not
16 include a bank, savings and loan association, or credit
17 union operating under the laws of the United States or this
18 State and does not include any person who acts solely as an
19 intermediary and does not deal with the public in the
20 making of the refund anticipation loan.

21 "Borrower" means a person who receives the proceeds of
22 a refund anticipation loan.

23 "Lender" means any person or entity that offers or
24 makes a refund anticipation loan.

25 "Refund anticipation loan" means a loan arranged to be
26 repaid directly from the proceeds of a borrower's income
27 tax refunds.

28 "Refund anticipation loan fee" means the charges,
29 fees, or other consideration charged or imposed by the
30 facilitator or lender for the making of or in connection
31 with a refund anticipation loan. "Refund anticipation loan
32 fee" includes any charges, fees, or other consideration for

1 a deposit account if the deposit account is used for
2 receipt of the consumer's tax refund to repay the amount
3 owed on the loan. "Refund anticipation loan fee" does not
4 include charges, fees, or other consideration charged or
5 imposed by the facilitator in the ordinary course of
6 business such as fees for tax return preparation and fees
7 for electronic filing of tax returns, if the same fees in
8 the same amount are charged to the facilitator's customers
9 who do not receive refund anticipation loans.

10 (b) The interest rate for a refund anticipation loan shall
11 be calculated as follows: the total amount of refund
12 anticipation loan fees divided by the loan amount (minus any
13 loan fees), then divided by the number of days in the loan
14 term, then multiplied by 365 and expressed as a percentage. If
15 a deposit account is established or maintained in whole or in
16 part for the purpose of receiving the consumer's tax refund to
17 repay the amount owed on a refund anticipation loan:

18 (1) the maturity of the loan for the purpose of
19 determining the refund anticipation loan interest rate
20 shall be assumed to be the estimated date when the tax
21 refund will be deposited in the deposit account; and

22 (2) any fee charged to the consumer for the deposit
23 account shall be considered a loan fee and shall be
24 included in the calculation of the refund anticipation loan
25 interest rate.

26 If no deposit account is established or maintained for the
27 repayment of the loan, the maturity of the loan shall be
28 assumed to be the estimated date when the tax refund is
29 received by the borrower.

30 (c) No facilitator shall directly or indirectly charge a
31 refund anticipation loan fee for the making of or in connection
32 with a refund anticipation loan when:

33 (1) the refund anticipation loan is issued to a
34 borrower who is eligible to receive the Illinois Earned
35 Income Tax Credit under Section 12 of the Illinois Income
36 Tax Act; and

1 (2) the refund anticipation loan has an interest rate
2 in excess of 26% per annum.

3 (d) At the time a borrower applies for a refund
4 anticipation loan, a facilitator shall disclose to the borrower
5 on a separate form headed "YOU ARE APPLYING FOR A LOAN" and
6 printed in at least 14-point type:

7 (1) the refund anticipation loan fee schedule;

8 (2) the Annual Percentage Rate using the interest rate
9 formula set forth in subsection (b) of this Section;

10 (3) the estimated fee for preparing and electronically
11 filing a tax return;

12 (4) the total cost to the borrower for using a refund
13 anticipation loan;

14 (5) the estimated date that the loan proceeds will be
15 paid to the borrower if the loan is approved;

16 (6) that the borrower is responsible for repayment of
17 the loan and related fees in the event the tax refund is
18 not paid or not paid in full; and

19 (7) the availability of electronic filing for the
20 income tax return of the borrower and the average time
21 announced by the federal Internal Revenue Service within
22 which the borrower can expect to receive a refund if the
23 borrower's return is filed electronically and the borrower
24 does not obtain a refund anticipation loan.

25 (e) The disclosure form provided to the borrower pursuant
26 to subsection (d) shall contain an acknowledgment signed and
27 dated by the borrower stating, "I, THE BORROWER, HAVE RECEIVED
28 AND READ A COPY OF THIS DISCLOSURE STATEMENT." The facilitator
29 shall sign and date the disclosure form. The original
30 disclosure form shall be retained by the facilitator and the
31 duplicate copy shall be retained by the borrower.

32 (f) A person who violates this Section commits an unlawful
33 practice within the meaning of this Act.

34 (815 ILCS 177/Act rep.)

35 Section 10. The Tax Refund Anticipation Loan Disclosure Act

1 is repealed.