

1 AN ACT concerning tax refunds.

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

4 Section 5. The Currency Exchange Act is amended by changing  
5 Section 3.1 as follows:

6 (205 ILCS 405/3.1) (from Ch. 17, par. 4805)

7 Sec. 3.1. Nothing in this Act shall prevent a currency  
8 exchange from rendering State or Federal income tax service;  
9 nor shall the rendering of such service be considered a  
10 violation of this Act if such service be rendered either by the  
11 proprietor, any of his employees, or a licensed, regulated tax  
12 service approved by the Internal Revenue Service. For the  
13 purpose of this Section, "tax service" does not mean to make or  
14 offer to make a refund anticipation loan as defined by the Tax  
15 Refund Anticipation Loan Reform ~~Disclosure~~ Act.

16 (Source: P.A. 97-315, eff. 1-1-12.)

17 Section 10. The Tax Refund Anticipation Loan Disclosure Act  
18 is amended by changing Sections 1, 5, 10, and 15 and by adding  
19 Sections 20, 25, 30, 35, and 40 as follows:

20 (815 ILCS 177/1)

21 Sec. 1. Short title. This Act may be cited as the Tax

1 Refund Anticipation Loan Reform ~~Disclosure~~ Act.

2 (Source: P.A. 92-664, eff. 1-1-03.)

3 (815 ILCS 177/5)

4 Sec. 5. Definitions. The following definitions apply in  
5 this Act:

6 "Consumer" means any natural person who, singly or jointly  
7 with another consumer, is solicited for, applies for, or  
8 receives the proceeds of a refund anticipation loan or refund  
9 anticipation check.

10 "Creditor" means any person who makes a refund anticipation  
11 loan or who takes an assignment of a refund anticipation loan.

12 "Facilitator" means a person who individually or in  
13 conjunction or cooperation with another person: (i) solicits  
14 the execution of ~~makes a refund anticipation loan,~~ processes,  
15 receives, or accepts ~~for delivery~~ an application or agreement  
16 for a refund anticipation loan or refund anticipation check;  
17 (ii) services or collects upon, ~~issues a check in payment of~~  
18 refund anticipation loan or refund anticipation check;  
19 ~~proceeds,~~ or (iii) in any other manner facilitates ~~acts to~~  
20 ~~allow~~ the making of a refund anticipation loan or refund  
21 anticipation check. If there is no third party facilitator  
22 because a creditor directly solicits the execution of,  
23 receives, or accepts an application or agreement for a refund  
24 anticipation loan or refund anticipation check, that creditor  
25 shall be considered a facilitator. "Facilitator" does not

1 include a bank, savings bank, savings and loan association, or  
2 credit union, ~~or licensee under the Consumer Installment Loan~~  
3 ~~Act~~ operating under the laws of the United States or this State  
4 and does not include any person who acts solely as an  
5 intermediary and does not deal with the public in the making of  
6 the refund anticipation loan.

7 "Person" means an individual, a firm, a partnership, an  
8 association, a corporation, or another entity. "Person" does  
9 not, however, mean a bank, savings bank, savings and loan  
10 association, or credit union operating under the laws of the  
11 United States or this State.

12 "Refund anticipation check" means a check, stored value  
13 card, or other payment mechanism: (i) representing the proceeds  
14 of the consumer's tax refund; (ii) which was issued by a  
15 depository institution or other person that received a direct  
16 deposit of the consumer's tax refund or tax credits; and (iii)  
17 for which the consumer has paid a fee or other consideration  
18 for such payment mechanism.

19 ~~"Borrower" means a person who receives the proceeds of a~~  
20 ~~refund anticipation loan.~~

21 "Refund anticipation loan" means a loan that is secured by  
22 or that the creditor arranges ~~arranged~~ to be repaid directly  
23 from the proceeds of the consumer's ~~a borrower's~~ income tax  
24 refund or tax credits ~~refunds~~. "Refund anticipation loan" also  
25 includes any sale, assignment, or purchase of a consumer's tax  
26 refund at a discount or for a fee, whether or not the consumer

1 is required to repay the buyer or assignee if the Internal  
2 Revenue Service denies or reduces the consumer's tax refund.

3 "Refund anticipation loan fee" means the charges, fees, or  
4 other consideration charged or imposed directly or indirectly  
5 by the creditor ~~facilitator~~ for the making of or in connection  
6 with a refund anticipation loan. This term includes any charge,  
7 fee, or other consideration for a deposit account, if the  
8 deposit account is used for receipt of the consumer's tax  
9 refund to repay the amount owed on the loan. A "refund  
10 anticipation loan fee" does not include charges, fees, or other  
11 consideration charged or imposed in the ordinary course of  
12 business by a facilitator for services that do not result in  
13 the making of a loan, including fees for tax return preparation  
14 and fees for electronic filing of tax returns.

15 "Refund anticipation loan interest rate" means the  
16 interest rate for a refund anticipation loan calculated as  
17 follows: the total amount of refund anticipation loan fees  
18 divided by the loan amount (minus any loan fees), then divided  
19 by the number of days in the loan term, then multiplied by 365  
20 and expressed as a percentage. The total amount of the refund  
21 anticipation loan fee used in this calculation shall include  
22 all refund anticipation loan fees as defined in this Section.  
23 If a deposit account is established or maintained in whole or  
24 in part for the purpose of receiving the consumer's tax refund  
25 to repay the amount owed on a refund anticipation loan: (i) the  
26 maturity of the loan for the purpose of determining the refund

1 anticipation loan interest rate shall be assumed to be the  
2 estimated date when the tax refund will be deposited in the  
3 deposit account; and (ii) any fee charged to the consumer for  
4 such deposit account shall be considered a loan fee and shall  
5 be included in the calculation of the refund anticipation loan  
6 interest rate. If no deposit account is established or  
7 maintained for the repayment of the loan, the maturity of the  
8 loan shall be assumed to be the estimated date when the tax  
9 refund is received by the creditor.

10 (Source: P.A. 92-664, eff. 1-1-03.)

11 (815 ILCS 177/10)

12 Sec. 10. Disclosure requirements. At the time a consumer  
13 ~~borrower~~ applies for a refund anticipation loan or check, a  
14 facilitator shall disclose to the consumer borrower on a  
15 document that is separate from the ~~loan~~ application:

16 (1) the fee for the refund anticipation loan or refund  
17 anticipation check fee schedule;

18 (1.5) for refund anticipation loans, disclosure of the  
19 refund anticipation loan interest rate. The refund  
20 anticipation loan interest rate shall be calculated as set  
21 forth in Section 5 ~~the Annual Percentage Rate utilizing a~~  
22 ~~10-day time period;~~

23 (2) the estimated fee for preparing and electronically  
24 filing a tax return;

25 (2.5) for refund anticipation loans, the total cost to

1 the consumer ~~borrower~~ for utilizing a refund anticipation  
2 loan;

3 (3) for refund anticipation loans, the estimated date  
4 that the loan proceeds will be paid to the consumer  
5 ~~borrower~~ if the loan is approved;

6 (4) for refund anticipation loans, that the consumer  
7 ~~borrower~~ is responsible for repayment of the loan and  
8 related fees in the event the tax refund is not paid or not  
9 paid in full; and

10 (5) for refund anticipation loans, the availability of  
11 electronic filing for the income tax return of the consumer  
12 ~~borrower~~ and the average time announced by the federal  
13 Internal Revenue Service within which the consumer  
14 ~~borrower~~ can expect to receive a refund if the consumer's  
15 ~~borrower's~~ return is filed electronically and the consumer  
16 ~~borrower~~ does not obtain a refund anticipation loan.

17 (Source: P.A. 92-664, eff. 1-1-03; 93-287, eff. 1-1-04.)

18 (815 ILCS 177/15)

19 Sec. 15. Posting of fee schedule and disclosures. ~~Penalty.~~

20 (a) A facilitator shall display a schedule showing the  
21 current fees for refund anticipation loans, if refund  
22 anticipation loans are offered, or refund anticipation checks,  
23 if refund anticipation checks are offered, facilitated at the  
24 office.

25 (b) A facilitator who offers refund anticipation loans

1 shall display on each fee schedule examples of the refund  
2 anticipation loan interest rates for refund anticipation loans  
3 of at least 5 different amounts, such as \$300, \$500, \$1,000,  
4 \$1,500, \$2,000, and \$5,000. The refund anticipation loan  
5 interest rate shall be calculated as set forth in Section 5 of  
6 this Act.

7 (c) A facilitator who offers refund anticipation loans  
8 shall also prominently display on each fee schedule: (i) a  
9 legend, centered, in bold, capital letters, and in one-inch  
10 letters stating: "NOTICE CONCERNING REFUND ANTICIPATION LOANS"  
11 and (ii) the following verbatim statement: "When you take out a  
12 refund anticipation loan, you are borrowing money against your  
13 tax refund. If your tax refund is less than expected, you will  
14 still owe the entire amount of the loan. If your refund is  
15 delayed, you may have to pay additional costs. YOU CAN GET YOUR  
16 REFUND IN 8 TO 15 DAYS WITHOUT PAYING ANY EXTRA FEES AND TAKING  
17 OUT A LOAN. You can have your tax return filed electronically  
18 and your refund direct deposited into your own financial  
19 institution account without obtaining a loan or paying fees for  
20 an extra product."

21 (d) The postings required by this Section shall be made in  
22 no less than 28-point type on a document measuring no less than  
23 16 inches by 20 inches. The postings required by this Section  
24 shall be displayed in a prominent location at each office where  
25 the facilitator is facilitating refund anticipation loans.

26 (e) A facilitator may not facilitate a refund anticipation

1 loan or refund anticipation check unless (i) the disclosures  
2 required by this Section are displayed and (ii) the fee  
3 actually charged for the refund anticipation loan or refund  
4 anticipation check is the same as the fee displayed on the  
5 schedule.

6 ~~Any person who violates this Act is guilty of a petty~~  
7 ~~offense and shall be fined \$500 for each offense. In addition,~~  
8 ~~a facilitator who violates this Act shall be liable to any~~  
9 ~~aggrieved borrower in an amount equal to 3 times the refund~~  
10 ~~anticipation loan fee, plus a reasonable attorney's fee, in a~~  
11 ~~civil action brought in the circuit court by the aggrieved~~  
12 ~~borrower or by the Attorney General on behalf of the aggrieved~~  
13 ~~borrower.~~

14 (Source: P.A. 92-664, eff. 1-1-03.)

15 (815 ILCS 177/20 new)

16 Sec. 20. Advertising and marketing.

17 (a) A facilitator may not market or advertise a refund  
18 anticipation loan without including this language verbatim:

19 "(Name of product) is a loan. You can get your refund in 8  
20 to 15 days without a loan or extra fees if you use e-file and  
21 direct deposit."

22 For print advertisements, this information must be printed  
23 in type size one-half as large as the largest type size in the  
24 advertisement. For radio and television advertisements, this  
25 information must receive at least 7 seconds of airtime.



1       (b) A facilitator may not market or advertise a refund  
2 anticipation check without including this language verbatim:

3       "The (name of product) costs (fee for RAC). You can get  
4 your refund in the same amount of time without this fee if you  
5 use e-file and direct deposit."

6       For print advertisements, this information must be in type  
7 size one-half as large as the largest type size in the  
8 advertisement. For radio and television advertisements, this  
9 information must receive at least 7 seconds of airtime.

10       (815 ILCS 177/25 new)

11       Sec. 25. Prohibited activities. No person, including any  
12 officer, agent, employee, or representative, shall:

13       (a) Charge or impose any fee, charge, or other  
14 consideration in the making or facilitating of a refund  
15 anticipation loan or refund anticipation check apart from the  
16 fee charged by the creditor or financial institution that  
17 provides the loan or check. This prohibition does not include  
18 any charge or fee imposed by the facilitator to all of its  
19 customers, such as fees for tax return preparation, if the same  
20 fee in the same amount is charged to the customers who do not  
21 receive refund anticipation loans, refund anticipation checks,  
22 or any other tax related financial product.

23       (b) Fail to comply with any provision of this Act.

24       (c) Directly or indirectly arrange for any third party to  
25 charge any interest, fee, or charge related to a refund

1 anticipation loan or refund anticipation check, other than the  
2 refund anticipation loan or refund anticipation check fee  
3 imposed by the creditor, including but not limited to: (i)  
4 charges for insurance; (ii) attorneys fees or other collection  
5 costs; or (iii) check cashing.

6 (d) Include any of the following provisions in any document  
7 provided or signed in connection with a refund anticipation  
8 loan or refund anticipation check, including the loan  
9 application or agreement:

10 (i) A hold harmless clause;

11 (ii) A waiver of the right to a jury trial, if  
12 applicable, in any action brought by or against the  
13 consumer;

14 (iii) Any assignment of wages or of other compensation  
15 for services;

16 (iv) A provision in which the consumer agrees not to  
17 assert any claim or defense arising out of the contract, or  
18 to seek any remedies pursuant to Section 35 of this Act;

19 (v) A waiver of any provision of this Act. Any such  
20 waiver shall be deemed null, void, and of no effect;

21 (vi) A waiver of the right to injunctive, declaratory,  
22 or other equitable relief; or

23 (vii) A provision requiring that any aspect of a  
24 resolution of a dispute between the parties to the  
25 agreement be kept confidential. This provision shall not  
26 affect the right of the parties to agree that certain

1 specified information is a trade secret or otherwise  
2 confidential, or to later agree, after the dispute arises,  
3 to keep a resolution confidential.

4 (e) Take or arrange for a creditor to take a security  
5 interest in any property of the consumer other than the  
6 proceeds of the consumer's tax refund to secure payment of a  
7 refund anticipation loan.

8 (f) Directly or indirectly, individually or in conjunction  
9 or cooperation with another person, engage in the collection of  
10 an outstanding or delinquent refund anticipation loan for any  
11 creditor or assignee, including soliciting the execution of,  
12 processing, receiving, or accepting an application or  
13 agreement for a refund anticipation loan or refund anticipation  
14 check that contains a provision permitting the creditor to  
15 repay, by offset or other means, an outstanding or delinquent  
16 refund anticipation loan for that creditor or any creditor from  
17 the proceeds of the consumer's tax refund.

18 (g) Facilitate any loan that is secured by or that the  
19 creditor arranges to be repaid directly from the proceeds of  
20 the consumer's State tax refund from the Illinois State  
21 treasury.

22 (815 ILCS 177/30 new)

23 Sec. 30. Rate limits for non-bank refund anticipation  
24 loans.

25 (a) No person shall make or facilitate a refund

1 anticipation loan for which the refund anticipation loan  
2 interest rate is greater than 36% per annum. The refund  
3 anticipation loan interest rate shall be calculated as set  
4 forth in Section 5. Any refund anticipation loan for which the  
5 refund anticipation loan interest rate exceeds 36% per annum  
6 shall be void ab initio.

7 (b) This Section does not apply to persons facilitating for  
8 or doing business as a bank, savings bank, savings and loan  
9 association, or credit union chartered under the laws of the  
10 United States or this State.

11 (815 ILCS 177/35 new)

12 Sec. 35. Applicability to certain entities. No obligation  
13 or prohibition imposed upon a creditor, a person, or a  
14 facilitator by this Act shall apply to a bank, savings bank,  
15 savings and loan association, or credit union operating under  
16 the laws of the United States or this State.

17 (815 ILCS 177/40 new)

18 Sec. 40. Violation. A violation of this Act constitutes an  
19 unlawful practice under the Consumer Fraud and Deceptive  
20 Business Practices Act.

21 Section 15. The Consumer Fraud and Deceptive Business  
22 Practices Act is amended by adding Section 2NNN as follows:

1 (815 ILCS 505/2NNN new)

2 Sec. 2NNN. Violations of the Tax Refund Anticipation Loan  
3 Reform Act. Any person who violates the Tax Refund Anticipation  
4 Loan Reform Act commits an unlawful practice within the meaning  
5 of this Act.

6 Section 97. Severability. The provisions of this Act are  
7 severable under Section 1.31 of the Statute on Statutes.

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.