

Hall of the House of Representatives

87th General Assembly - Regular Session, 2009

Amendment Form

Subtitle of House Bill No. 2203

"TO CREATE THE REFUND ANTICIPATION LOAN ACT."

Amendment No. 1 to House Bill No. 2203.

Amend House Bill No. 2203 as originally introduced:

Page 1, delete line 36 and substitute the following:

"(2) "Creditor" means a person who makes a refund anticipation loan or who takes an assignment of a refund anticipation loan;

(3)(A) "Facilitator" means a person who, individually or in"

AND

Page 2, line 13, delete "(3)(A)" and substitute "(4)(A)"

AND

Page 2, line 20, delete "(4)(A)" and substitute "(5)(A)"

AND

Page 2, line 27, delete "(5)" and substitute "(6)"

AND

Page 3, delete line 14 and substitute the following:

"(1) Examples of the interest rates charged for refund anticipation loans in the amounts of:

(A) Two hundred fifty dollars (\$250);

(B) Five hundred dollars (\$500);

(C) One thousand dollars (\$1,000); and

(D) Two thousand five hundred dollars (\$2,500);

(2) A legend, centered, in bold capital letters, and in one-inch"

AND

Page 3, line 16, delete "(2)" and substitute "(3)"



AND

Page 4, line 2, delete "form" and substitute "colored-paper form"

AND

Page 5, line 7, delete "subsection (a) of this section" and substitute "this section"

AND

Page 5, delete line 11 and substitute the following:

"4-116-106. Oral disclosures.

(a) If a consumer applies for a refund anticipation loan, the facilitator shall orally inform the consumer:

(1) That the product is a loan that lasts one (1) or two (2) weeks;

(2) That if the consumer's tax refund is less than expected, the consumer is liable for the full amount of the loan and must repay any difference;

(3) The amount of the refund loan fee; and

(4) The refund anticipation loan interest rate.

(b) If a consumer applies for a refund anticipation check, the facilitator shall orally inform the consumer:

(1) The amount of the refund check; and

(2) That the consumer may receive a refund in the same amount of time without a fee if the tax return is filed electronically and if the consumer directly deposits the refund in the consumer's own bank account.

(c) The disclosures required in this section shall be provided in the language primarily used for oral communication between the facilitator and the consumer.

4-116-107. Prohibited activities."

AND

Page 5, delete lines 15 through 25 and substitute the following:

"(2)(A) Charge or impose any fee, or charge or require other consideration in the making or facilitating of a refund anticipation loan or refund anticipation check apart from the fee charged by the creditor or bank that provides the loan or check.

(B)(i) This section does not prohibit the charge or fee imposed by the facilitator to all of its customers if the same fee in the same amount is charged to customers who do not receive refund anticipation loans, refund anticipation checks, or other tax-related financial products.

(ii) This fee may include fees for tax return preparation;

(3) Engage in a transaction, practice, or course of business that operates a fraud upon a consumer in connection with a refund anticipation loan or refund anticipation check, including making oral statements contradicting any of the information required to be disclosed under this chapter;

(4) Directly or indirectly arrange for any third party to charge an interest, fee, or charge related to a refund anticipation loan or refund anticipation check, other than the refund anticipation loan or refund anticipation check fee imposed by the creditor including without limitation charges for insurance, attorney's fees, other collection costs, or check cashing.

(5) Misrepresent a material fact or condition of a refund anticipation loan or refund anticipation check; and

(6) Fail to process the application for a refund anticipation loan promptly after the client applies for the loan.

4-116-108. Remedies.

(a) A facilitator who violates a provision of this chapter is in violation of The Arkansas Deceptive Trade Practices Act, § 4-88-101 et seq., and a consumer shall have all rights and remedies provided under this law.

(b) A facilitator who fails to comply with any provision of this chapter is liable to the consumer for:

(1) Actual and consequential damages;

(2) Statutory damages of two thousand five hundred dollars (\$2,500); and

(3) Reasonable attorney's fees and costs."

The Amendment was read _____
By: Representative Williams
MAG/CDS - 03-17-2009 13:28
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Chief Clerk