

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

# A Bill

HOUSE BILL 2203

4  
5 By: Representative Williams  
6  
7

## For An Act To Be Entitled

8  
9 AN ACT TO CREATE THE REFUND ANTICIPATION LOAN  
10 ACT; AND FOR OTHER PURPOSES.  
11

## Subtitle

12  
13  
14 TO CREATE THE REFUND ANTICIPATION LOAN  
15 ACT.  
16  
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code Title 4 is amended to create a new chapter to  
21 read as follows:  
22

### Chapter 116 Refund Anticipation Loan Act

#### 4-116-101. Title and intent.

25  
26 (a) This act shall be known and referred to as the "Refund  
27 Anticipation Loan Act".

28 (b) It is the intent of the General Assembly that this act shall  
29 protect consumers who enter into a refund anticipation loan and a refund  
30 anticipation check transaction.

#### 4-116-102. Definitions.

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32  
33 (1) "Consumer" means a person who, individually or in  
34 conjunction with another consumer, is solicited for, applies for, or receives  
35 a refund anticipation loan or refund anticipation check;

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



1 conjunction or cooperation with another person:

2 (i) Solicits the execution of, processes, receives,  
 3 or accepts an application or agreement for a refund anticipation loan or  
 4 refund anticipation check;

5 (ii) Services or collects upon a refund anticipation  
 6 loan or refund anticipation check; or

7 (iii) Facilitates the making of a refund  
 8 anticipation loan or refund anticipation check.

9 (B) "Facilitator" does not include a bank, savings and  
 10 loan association, credit union, or person who acts solely as an intermediary  
 11 and does not deal with the public in making of a refund anticipation loan or  
 12 refund anticipation check;

13 (3)(A) "Refund anticipation loan" means a loan arranged to be  
 14 paid directly or indirectly from the proceeds of the consumer's income tax  
 15 refund or tax credits.

16 (B) "Refund anticipation loan" includes any sale,  
 17 assignment, or purchase of a consumer's tax refund at a discount or for a  
 18 fee, whether or not the consumer is required to repay the buyer or assignee  
 19 if the Internal Revenue Service denies or reduces the consumer's tax refund.

20 (4)(A) "Refund anticipation loan fee" means any charges, fees,  
 21 or other consideration charged or imposed directly or indirectly for the  
 22 making of or in connection with a refund anticipation loan.

23 (B) "Refund anticipation loan fee" includes a charge, fee,  
 24 or other consideration for a deposit account, if the deposit account is used  
 25 for receipt of the consumer's tax refund to repay the amount owed on the  
 26 loan; and

27 (5) "Refund anticipation check" means a check, stored value  
 28 card, or other payment mechanism, representing the proceeds of the consumer's  
 29 tax refund, which was issued by a depository institution or other person that  
 30 received a direct deposit of the consumer's tax refund or tax credit and for  
 31 which the consumer has paid a fee or other consideration for such payment  
 32 mechanism.

33  
 34 4-116-103. Scope.

35 Unless the person has complied with the provisions of this chapter, a  
 36 person, including any officer, agent, employee or representative, may

1 individually or in conjunction or cooperation with another person shall not:

2 (1) Solicit the execution of, process, receive, or accept an  
3 application or agreement for a refund anticipation loan or refund  
4 anticipation check; or

5 (2) Facilitate the making of a refund anticipation loan or  
6 refund anticipation check.

7  
8 4-116-104. Posting of fee schedules and disclosures.

9 (a) A facilitator shall display a schedule showing the current fees  
10 for refund anticipation loans or refund anticipation checks facilitated at  
11 the office.

12 (b) A facilitator also shall prominently display on each fee schedule  
13 the following information:

14 (1) A legend, centered, in bold capital letters, and in one-inch  
15 letters stating: "NOTICE CONCERNING REFUND ANTICIPATION LOANS"; and

16 (2) The following statement: "When you take out a refund  
17 anticipation loan, you are borrowing money against your tax refund. If your  
18 tax refund is less than expected, you will still owe the entire amount of the  
19 loan. If your refund is delayed, you may have to pay additional costs. YOU  
20 CAN USUALLY GET YOUR REFUND IN 8 TO 15 DAYS WITHOUT PAYING ANY EXTRA FEES AND  
21 TAKING OUT A LOAN. You can have your tax return filed electronically and  
22 your refund direct deposited into your own bank account without obtaining a  
23 loan or paying fees for an extra product."

24 (c)(1) The postings required by this section shall be made in no less  
25 than 28-point type on a document measuring no less than sixteen (16") inches  
26 by twenty (20") inches.

27 (2) The posting required in this section shall be displayed in a  
28 prominent location at each office where the facilitator is facilitating  
29 refund anticipation loans.

30 (d) A facilitator shall not facilitate a refund anticipation loan or  
31 refund anticipation check unless;

32 (1) The disclosures required by this section are displayed, and

33 (2) The fee charged for the refund anticipation loan or refund  
34 anticipation check is the same as the fee displayed on the schedule.

35  
36 4-116-105. Application disclosures.

1 When a consumer applies for a refund anticipation loan or refund  
 2 anticipation check, the facilitator shall disclose to the consumer on a form  
 3 separate from the application in 14-point type face, the following  
 4 information:

5 (1) The fee for the refund anticipation loan or refund  
 6 anticipation check, including the fee for tax preparation and other fee  
 7 charged the consumer;

8 (2) The time within which the proceeds of the refund  
 9 anticipation loan or check will be paid to the consumer if the loan or check  
 10 is approved;

11 (3) For refund anticipation loans, the following disclosures:

12 (A) A legend, centered, in bold, capital letters, and in  
 13 18-point type stating: "NOTICE"; and

14 (B) The statement: "This is a loan. You are borrowing  
 15 money against your tax refund. If your tax refund is less than expected, you  
 16 will still owe the entire amount of the loan. If your refund is delayed, you  
 17 may have to pay additional costs. YOU CAN USUALLY GET YOUR REFUND IN 8 TO 15  
 18 DAYS WITHOUT GETTING A LOAN OR PAYING EXTRA FEES. You can have your tax  
 19 return filed electronically and your refund direct deposited into your bank  
 20 account without obtaining a loan or other paid product."

21 (4)(A) For refund anticipation loans, disclosure of the refund  
 22 anticipation loan interest rate.

23 (B) The refund anticipation loan interest rate shall be  
 24 calculated utilizing the guidelines established under the federal Truth in  
 25 Lending Act 15 U.S.C. § 1601 et seq. as it existed on January 1, 2009;

26 (5) For refund anticipation checks, the following disclosures:

27 (A) A legend, centered, in bold, capital letters, and in  
 28 18-point type stating: "NOTICE"; and

29 (B) The statement: "You are paying [amount of refund  
 30 anticipation check fee] to get your refund check through [name of issuer of  
 31 the refund anticipation check]. YOU CAN AVOID THIS FEE AND STILL RECEIVE  
 32 YOUR REFUND IN THE SAME AMOUNT OF TIME BY HAVING YOUR REFUND DIRECTED  
 33 DEPOSITED INTO YOUR BANK ACCOUNT. You can also wait for the Internal Revenue  
 34 Service to mail you a check."

35 (6) The facilitator shall provide to the consumer before  
 36 completing the loan or check transaction in a form that can be kept by the

1 consumer the following:

2 (A) The disclosures required by this subsection;

3 (B) A copy of the completed loan or check application and  
4 agreement; and

5 (C) For refund anticipation loans, the disclosures  
6 required by the federal Truth in Lending Act; and

7 (7) The disclosures required by subsection (a) of this section  
8 shall be provided in English and in the language used primarily for oral  
9 communication between the facilitator and the consumer.

10  
11 4-116-106. Prohibited activities

12 A facilitator shall not:

13 (1) Require a consumer to enter into a loan agreement in order  
14 to complete a tax return;

15 (2) Misrepresent a material fact or condition of a refund  
16 anticipation loan or refund anticipation check;

17 (3) Fail to process the application for a refund anticipation  
18 loan promptly after the client applies for the loan; and

19 (4) Engage in a transaction, practice, or course of business  
20 that operates a fraud upon a consumer in connection with a refund  
21 anticipation loan or refund anticipation check.

22  
23 4-116-107. Remedies.

24 A facilitator who violates a provision of this chapter shall be in  
25 violation of § 4-88-101 et seq., The Arkansas Deceptive Trade Practices Act.