

BILL ANALYSIS

H.B. 1344
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Financial Institutions
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Refund anticipation loans (RALs) are short-term cash advances against a taxpayer's anticipated income tax refund. The use of RALs is particularly common among Texans filing for the Earned Income Tax Credit (EITC). Due to RAL APRs that often reach into triple digits and associated fees, the cost of a RAL often accounts for a significant portion of a taxpayer's refund. Currently, Texas does not require RAL facilitators to register with the state nor disclose certain information to consumers.).

H.B. 1344 requires facilitators to possess an IRS e-file authorization and to register with the Office of the Consumer Credit Commissioner (OCCC). H.B. 1344 requires RAL facilitators to disclose certain information to RAL customers.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1344 requires a RAL facilitator to be engaged in the business of preparing tax returns or employed by or affiliated with such a business, authorized by the IRS as an e-file provider, and registered with the OCCC. A facilitator is considered an individual who processes, receives, or accepts a RAL application, delivers a check in payment of RAL proceeds, or otherwise acts to allow the making of a RAL. The requirements for facilitators do not apply to banks, thrifts, savings associations, industrial banks, credit unions, or individuals who act as intermediaries without directly interacting with taxpayers in the making of the RALs.

H.B. 1344 requires the person to register with the OCCC and pay a processing fee prior to the first day of the calendar year in which a person seeks to act as a facilitator. The OCCC will establish the fee in the amount necessary to cover the administrative costs of the registration process, prescribe the registration form, and make available to the public a list of registered facilitators.

H.B. 1344 requires the facilitator to provide a written statement explaining that a RAL is a loan, that the taxpayer may file an electronic tax return with the facilitator without applying for a RAL, and that the borrower is responsible for repayment of the loan and fees if the tax refund is insufficient. The facilitator must also inform the borrower in writing of the average time within which a taxpayer can expect to receive a refund for an income tax return filed through the different means available from the facilitator. Additionally, the facilitator must inform the borrower of the estimated total fees and annual percentage rate for the particular RALs offered to that borrower.

H.B. 1344 permits the OCCC to monitor and investigate facilitators to ensure compliance with the requirements. The OCCC may also revoke a facilitator's registration if these requirements are not fulfilled. The facilitator is entitled to a hearing and may appeal to district court. The OCCC may assess a \$500 penalty for each knowing and willful violation of this chapter. This bill preempts local ordinances regulating RALs.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007. The requirement under Section 351.002(a), Finance Code, takes effect January 1, 2008.

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