

By: Farias

H.B. No. 322

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of persons who facilitate the issuance of tax refund anticipation checks.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 352, Finance Code, is amended to read as follows:

CHAPTER 352. TAX REFUND ANTICIPATION LOANS AND TAX REFUND ANTICIPATION CHECKS

SECTION 2. Section 352.001, Finance Code, is amended by adding Subdivisions (1-a) and (3-a) and amending Subdivision (2) to read as follows:

(1-a) "Consumer" means an individual who applies for or receives the proceeds of a refund anticipation check.

(2) "Facilitator" means a person who processes, receives, or accepts for delivery an application for a refund anticipation loan or a refund anticipation check, delivers a check in payment of refund anticipation loan proceeds, or in any other manner acts to allow the making of a refund anticipation loan or the issuance of a refund anticipation check.

(3-a) "Refund anticipation check" means a check, stored value card, or other payment mechanism:

(A) that represents the proceeds of the consumer's tax refund;

(B) that is issued by a depository institution or

1 other person who receives a direct deposit of the consumer's tax  
2 refund or tax credits; and

3 (C) for which the consumer pays a fee or other  
4 consideration.

5 SECTION 3. Section 352.002(b), Finance Code, is amended to  
6 read as follows:

7 (b) This section does not apply to:

8 (1) a bank, thrift, savings association, industrial  
9 bank, or credit union operating under the laws of the United States  
10 or this state;

11 (2) an affiliate that is a servicer of a person  
12 described by Subdivision (1) operating under the name of that  
13 person; or

14 (3) any person who acts solely as an intermediary and  
15 does not interact directly with a taxpayer in the making of the  
16 refund anticipation loan or issuance of a refund anticipation  
17 check.

18 SECTION 4. Section 352.003(a), Finance Code, is amended to  
19 read as follows:

20 (a) To register as a facilitator, a person must provide to  
21 the commissioner, on or before December 31 preceding each calendar  
22 year in which the person seeks to act as a facilitator:

23 (1) a list of each location in this state at which  
24 e-file providers authorized by the Internal Revenue Service file  
25 tax returns on behalf of borrowers for whom the facilitator acts to  
26 allow the making of a refund anticipation loan or acts to facilitate  
27 the issuance of a refund anticipation check; and

1           (2) a processing fee for each location included on the  
2 list furnished under Subdivision (1).

3           SECTION 5. The heading to Section 352.004, Finance Code, is  
4 amended to read as follows:

5           Sec. 352.004. DISCLOSURE       REQUIREMENTS       FOR       REFUND  
6 ANTICIPATION LOANS.

7           SECTION 6. Chapter 352, Finance Code, is amended by adding  
8 Section 352.0041 to read as follows:

9           Sec. 352.0041. DISCLOSURE       REQUIREMENTS       FOR       REFUND  
10 ANTICIPATION CHECKS. (a) A facilitator to which Section 352.002

11 applies shall discuss with and clearly disclose to a consumer:

12                   (1) the refund anticipation check fee schedule;

13                   (2) a written statement disclosing:

14                           (A) that the taxpayer may file an income tax  
15 return electronically without applying for a refund anticipation  
16 check;

17                           (B) the average time, as published by the  
18 Internal Revenue Service, within which a taxpayer can expect to  
19 receive a refund for an income tax return filed electronically and  
20 within which the refund is:

21                                   (i) deposited directly into the taxpayer's  
22 bank account; or

23                                   (ii) mailed to the taxpayer; and

24                           (C) that the Internal Revenue Service does not  
25 guarantee payment of the full amount of the anticipated refund;  
26 and

27                   (3) the estimated total fees for the check.

1       (b) A refund anticipation check fee schedule required by  
2 Subsection (a)(1) must be a listing or table of fees charged for the  
3 issuance of a refund anticipation check. The schedule shall:

4           (1) list separately each fee imposed related to the  
5 issuance of a refund anticipation check; and

6           (2) list the total amount of fees imposed related to  
7 the issuance of a refund anticipation check.

8       (c) A facilitator who advertises or markets refund  
9 anticipation checks in Spanish shall offer any consumer the option  
10 of receiving a Spanish-language printed disclosure and  
11 contract. A facilitator who negotiates a refund anticipation  
12 check with a consumer in Spanish shall offer that consumer the  
13 option of receiving a Spanish-language printed disclosure and  
14 contract.

15       SECTION 7. Section 352.008, Finance Code, is amended to  
16 read as follows:

17       Sec. 352.008. PREEMPTION OF LOCAL ORDINANCE. This chapter  
18 preempts a local ordinance or rule regulating refund anticipation  
19 loans or refund anticipation checks.

20       SECTION 8. This Act takes effect January 1, 2016.