SENATE DOCKET, NO. FILED ON: 1/13/2009

**SENATE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Marian Walsh**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General  
 Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act requiring certain disclosures to be made by a tax preparer facilitating the advance of monies prior to the receipt of an income tax refund.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PETITION OF:

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| --- | --- |
| Name: | District/Address: |

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

An Act requiring certain disclosures to be made by a tax preparer facilitating the advance of monies prior to the receipt of an income tax refund.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Chapter 93 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding at the end thereof the following section:--

Section 115. As used in this section, the following words shall, unless the context otherwise requires, have the following meanings:--

“Tax preparer”, a person who is engaged in the business of preparing tax returns if he advertises, or gives publicity to the effect that he prepares or assists others in the preparation of tax returns, or if he prepares or assists others in the preparation of tax returns for compensation.

“Tax refund anticipation check”, a check or other payment mechanism: (i) representing an amount equal to the proceeds of the consumer’s anticipated income tax refund less any related fees; (ii) which was issued by a depository institution or other person that received a direct deposit of the consumer’s tax refund or tax credits; and (iii) for which the consumer has paid a fee or other consideration for such payment mechanism.

“Tax refund anticipation loan”, a loan that is secured by or that the creditor arranges to be repaid directly or indirectly from the proceeds of the consumer’s income tax refund or tax credits. A tax refund anticipation loan also includes any sale, assignment, or purchase of a consumer’s tax refund at a discount or for a fee, whether or not the consumer is required to repay the buyer or assignee if the Internal Revenue Service denies or reduces the consumer’s tax refund.

A tax preparer who facilitates the issuance of a tax refund anticipation check or the extension of a tax refund anticipation loan shall prominently display in a conspicuous area in each tax preparation office the following notice in boldface type, with the title in one-inch upper case letters, and the following text in no less than 28-point type, with the second paragraph in upper case letters, on a document measuring no less than 16 inches by 20 inches:

**NOTICE CONCERNING TAX REFUND ANTICIPATION LOANS**

**When you take out a tax refund anticipation loan, you are borrowing money. If your tax refund is less than expected, you must still repay the entire amount of the loan. If your refund is delayed, you may have to pay additional costs. You can have your tax return filed electronically and your refund direct deposited into your own account at your own financial institution without obtaining a loan or paying fees for an extra product.**

**YOU ARE NOT REQUIRED TO OBTAIN A TAX REFUND ANTICIPATION LOAN IN ORDER TO RECEIVE A TAX REFUND.**

A tax preparer shall disclose to a consumer on a form separate from any tax preparation agreement for a tax refund anticipation loan the following disclosure in eighteen point boldface type, with the title and second paragraph in upper case letters:

**NOTICE**

**This is a loan. If your tax refund is less than expected, you must still repay the entire amount of the loan. If your refund is delayed, you may have to pay additional costs. You can have your tax return filed electronically and your refund direct deposited into your own account at your own financial institution without obtaining a loan or other paid product.**

**YOU ARE NOT REQUIRED TO OBTAIN A TAX REFUND ANTICIPATION LOAN IN ORDER TO RECEIVE A TAX REFUND.**

A tax preparer shall disclose to a consumer on a form separate from any tax preparation agreement for a tax refund anticipation check the following disclosure in eighteen point boldface type, in substantially the same format as follows:

**NOTICE**

**You are paying [amount of tax refund anticipation check fee] to get your refund check through [name of issuer of tax refund anticipation check]. YOU CAN AVOID THIS FEE AND STILL RECEIVE YOUR REFUND BY HAVING THE INTERNAL REVENUE SERVICE OR THE MASSACHUSETTS DEPARTMENT OF REVENUE DIRECT DEPOSIT YOUR REFUND INTO YOUR OWN ACCOUNT AT YOUR OWN FINANCIAL INSTITUTION. You can also wait for the Internal Revenue Service or Massachusetts Department of Revenue to mail you a check. If you do not have a bank account, you may wish to consider getting one.**

**YOU ARE NOT REQUIRED TO OBTAIN A TAX REFUND ANTICIPATION CHECK IN ORDER TO RECEIVE A TAX REFUND.**