

SENATE No.

The Commonwealth of Massachusetts

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:

NAME:

DISTRICT/ADDRESS:

The Commonwealth of Massachusetts

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:*

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

3

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

6

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

10

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

16

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

22

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

28

29 **NOTICE CONCERNING TAX REFUND ANTICIPATION LOANS**

30

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

36

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

39

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

43

44 **NOTICE**

45

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

50

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

53

54

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

58

59

NOTICE

60

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

68

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