REFUND ANTICIPATION LOAN DISCLOSURE ACT
Act 66 of 2009

AN ACT to require disclosure of certain information in connection with refund anticipation loans; and to prescribe penalties.

History: 2009, Act 66, Imd. Eff. July 9, 2009.

The People of the State of Michigan enact:

446.111 Short title.

Sec. 1. This act shall be known and may be cited as the "refund anticipation loan disclosure act".

History: 2009, Act 66, Imd. Eff. July 9, 2009.

446.113 Definitions.

Sec. 3. As used in this act:

(a) "Annual percentage rate" means the rate as computed under the federal truth in lending act, 15 USC 1601 to 1667f.

(b) "Facilitator" means a person that individually or in conjunction or cooperation with another person processes, receives, or accepts for delivery an application for a refund anticipation loan or a check in payment of refund anticipation loan proceeds or in any other manner materially facilitates the making of a refund anticipation loan. The term does not include any of the following:

(*i*) A financial institution.

(*ii*) An affiliate that is a servicer for a financial institution.

(*iii*) A person certified, registered, or licensed to engage in the practice of public accounting under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736.

(c) "Financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union.

(d) "Lender" means a person that makes a refund anticipation loan.

(e) "Person" means an individual, partnership, association, corporation, limited liability company, or other legal entity.

(f) "Refund anticipation loan" means an extension of credit to a taxpayer that a person arranges to be repaid directly from the proceeds of the taxpayer's federal or state personal income tax refund.

(g) "Refund anticipation loan fee" means the charges, fees, or other consideration charged or imposed by a person acting as a lender or facilitator for the making of a refund anticipation loan. The term does not include any charge, fee, or other consideration usually charged or imposed by a facilitator in the ordinary course of business for tax return preparation, electronic filing of tax returns, or other nonloan services.

(h) "Taxpayer" means an individual who files a federal or Michigan personal income tax return.

History: 2009, Act 66, Imd. Eff. July 9, 2009.

446.115 Information to be disclosed to taxpayer by facilitator.

Sec. 5. Before a taxpayer completes an application for a refund anticipation loan, the facilitator shall clearly disclose all of the following in writing to the taxpayer on a form separate from the application:

(a) A listing or table of refund anticipation loan fees and the annual percentage rates charged by the facilitator or lender for 3 or more representative refund anticipation loan amounts. For each refund anticipation loan amount, the schedule shall list separately the amount of each fee and the amount of interest charged by the facilitator or lender and the total amount of fees and interest charged.

(b) That the refund anticipation loan is an extension of credit and not the taxpayer's actual personal income tax refund.

(c) That electronic filing of the taxpayer's tax return is available without applying for a refund anticipation loan.

(d) The average time announced by the appropriate taxing authority within which the taxpayer can expect to receive a refund if the taxpayer does not obtain a refund anticipation loan and the taxpayer's return is filed using either of the following methods:

(*i*) Electronically and the refund is directly deposited in the taxpayer's bank account.

(*ii*) By mail and the refund is directly deposited in the taxpayer's bank account or mailed to the taxpayer.

(e) That the internal revenue service with respect to a federal personal income tax return, or the department of treasury with respect to a Michigan personal income tax return, does not guarantee either of the following:

(*i*) That the full amount of the anticipated refund will be paid.

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(*ii*) A specific date on which the taxpayer will receive the refund.

(f) That the taxpayer is responsible for repayment of the refund anticipation loan and related fees in the event the tax refund is not paid or is not paid in full.

(g) The estimated time within which the proceeds of the refund anticipation loan will be paid to the taxpayer if the loan is approved.

(h) The fees charged by the facilitator or lender if the refund anticipation loan is not approved.

History: 2009, Act 66, Imd. Eff. July 9, 2009.

446.117 Information to be disclosed before entering agreement.

Sec. 7. Before entering into a refund anticipation loan agreement, the facilitator shall clearly disclose both of the following to the taxpayer:

(a) The estimated total fees for the refund anticipation loan.

(b) The estimated annual percentage rate for the refund anticipation loan.

History: 2009, Act 66, Imd. Eff. July 9, 2009.

446.119 Violation as misdemeanor; penalty.

Sec. 9. A person, including, but not limited to, a facilitator or a member, officer, director, agent, or employee of a facilitator, that violates or participates in a violation of this act is guilty of a misdemeanor punishable by a fine of not more than $500.00 or imprisonment for not more than 93 days, or both.

History: 2009, Act 66, Imd. Eff. July 9, 2009.

446.121 Preemption.

Sec. 11. A political subdivision of this state shall not adopt any rule, regulation, code, or ordinance to restrict or limit any requirements under this act relating to refund anticipation loans. This act supersedes and preempts any rule, regulation, code, or ordinance of any political subdivision of this state relating to refund anticipation loans.

History: 2009, Act 66, Imd. Eff. July 9, 2009.

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