

**SENATE . . . . . No. 1388**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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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,  
2 is hereby amended by adding at the end thereof the following section:--

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

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

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

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

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

24 NOTICE CONCERNING TAX REFUND ANTICIPATION LOANS

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

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

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

35 NOTICE

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

40 YOU ARE NOT REQUIRED TO OBTAIN A TAX REFUND ANTICIPATION LOAN  
41 IN ORDER TO RECEIVE A TAX REFUND

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

45 NOTICE

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

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