

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 SENATE BILL 781

By: Leftwich

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5
6 AS INTRODUCED

7 An Act relating to the Consumer Credit Code and the
8 Consumer Protection Act; creating the Tax Preparers
9 Oversight Act; providing short title; defining terms;
10 creating the Tax Preparer Oversight Board; making the
11 Board responsible for certain registration and
12 regulation of tax preparers; requiring Board to
13 advise the Administrator of Consumer Credit and the
14 Commission of Consumer Credit on certain matters;
15 providing for Board membership, qualifications;
16 appointment, terms, vacancies, removal, compensation,
17 rules of procedure, officers, quorum, meetings and
18 compliance with certain acts and provisions of law;
19 providing for powers and duties of Board; requiring
20 Administrator of Consumer Affairs to provide certain
21 support; authorizing Commission to make certain final
22 decisions; requiring registration of certain
23 individuals who assist with, prepare or assume
24 responsibility for tax returns for other individuals
or entities under certain circumstances; providing
for registration of certain tax preparers under
certain circumstances who meet certain requirements;
providing for certain fees; providing for certain
renewal; providing qualifications for registration;
providing for registration of certain entities;
providing for expiration; providing for certain
educational requirements; providing exception;
providing for certain continuing education; providing
exception; providing for violations; providing
penalty; providing for codification; providing an
effective date; and declaring an emergency.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 6-513 of Title 14A, unless there
4 is created a duplication in numbering, reads as follows:

5 Sections 1 through 8 of this act shall be known and may be cited
6 as the "Tax Preparers Oversight Act".

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6-513.1 of Title 14A, unless
9 there is created a duplication in numbering, reads as follows:

10 As used in the Tax Preparer Oversight Act:

11 1. "Administrator" means the Administrator of Consumer Affairs;

12 2. "Board" means the Tax Preparer Oversight Board;

13 3. "Client" means an individual or entity for whom a tax
14 preparer performs or agrees to perform tax preparation services;

15 4. "Commission" means the Commission on Consumer Credit;

16 5. "Income tax return" means a return, declaration, statement,
17 refund, claim or other document required to be made or filed in
18 connection with state or federal income taxes;

19 6. "Tax preparer" means:

20 a. an individual who assists with or prepares or offers
21 to assist with or prepare in any one calendar year
22 five or more tax returns for other individuals or
23 entities or who assumes final responsibility for
24 completed work on such tax returns on which

1 preliminary work has been done by other individuals
2 for a fee or for other consideration. An individual
3 engaged in that activity shall be deemed to be a
4 separate individual irrespective of affiliation with,
5 or employment by, another tax preparer, or

6 b. a corporation, partnership, limited partnership,
7 association, or other entity that has associated with
8 it individuals not specifically exempted in this
9 section who have as part of their responsibilities the
10 preparation of data and ultimate signatory authority
11 on tax returns, who assists with or prepares or offers
12 to assist with or prepare in any one calendar year
13 five or more tax returns for other persons or entities
14 or who assumes or represents as having final
15 responsibility for completed work on such returns on
16 which preliminary work has been done by other
17 individuals for a fee or for other consideration,

18 c. "tax preparer" shall not include:

19 (1) an individual who holds a valid certificate or
20 license from the Oklahoma Accountancy Board and
21 any employee of the certificate or license holder
22 while functioning within the scope of their
23 employment,
24

- 1 (2) a person licensed to practice law in this state
2 who renders service within the course and scope
3 of the practice of law and any employee of the
4 license holder while functioning within the scope
5 of their employment,
- 6 (3) an individual enrolled to practice before the
7 U.S. Internal Revenue Service, referred to as
8 "Enrolled Agents",
- 9 (4) a financial institution regulated by the state or
10 federal government and any employee whose
11 activities are related to their employment and
12 the activities of the financial institution with
13 respect to tax preparation which are subject to
14 federal or state examination or oversight,
- 15 (5) any other individual corporation, partnership,
16 association, or other entity subject to
17 regulation of the Oklahoma Banking Code and any
18 employee while functioning within the scope of
19 their employment, or
- 20 (6) any individual functioning within the scope of
21 their employment who prepares income, sales,
22 payroll, or other tax returns for their employer.
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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6-513.2 of Title 14A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. There is hereby created a Tax Preparer Oversight Board which
5 shall be responsible for the registration and regulation of tax
6 preparers in the State of Oklahoma. The Board shall advise the
7 Administrator of Consumer Credit and the Commission on Consumer
8 Credit on rules and all other matters relating to the regulation of
9 tax preparers in this state.

10 B. The Tax Preparer Oversight Board shall consist of five (5)
11 members, two of whom shall be persons who have been tax preparers as
12 defined in Section 2 of the Tax Preparer Oversight Act for not less
13 than five (5) years prior to appointment, one Certified Public
14 Accountant or Public Accountant who is registered with the Oklahoma
15 Accountancy Board, one Enrolled Agent registered with the United
16 States Internal Revenue Service, and one public member who shall be
17 appointed by the Governor to a term coterminous with the Governor as
18 follows:

- 19 1. For the initial appointments:
- 20 a. one tax preparer member shall be appointed to serve
 - 21 until October 1, 2008,
 - 22 b. one tax preparer member shall be appointed to serve
 - 23 until October 1, 2009,

24

1 c. the Certified Public Accountant or Public Accountant
2 member shall be appointed to serve until October 1,
3 2008, and

4 d. the Enrolled Agent member shall be appointed to serve
5 until October 1, 2009;

6 2. Thereafter, except for the public member, each member shall
7 be appointed to serve terms of five (5) years;

8 3. Each member shall serve until such time as the successor
9 member has been appointed;

10 4. Any vacancy in the Board shall be filled by the Governor in
11 the manner provided for regular appointments;

12 5. Members may be removed by the Governor for cause; and

13 6. Members shall serve without compensation, but shall be
14 reimbursed for expenses incurred in the performance of their duties
15 in accordance with the State Travel Reimbursement Act.

16 C. The Board shall establish rules of procedure which shall
17 include, but not be limited to, the following guidelines:

18 1. Elect a chair and such other officers as deemed necessary
19 annually;

20 2. Establish a quorum of not less than three (3) members to
21 conduct business;

22 3. Establish meeting dates of not less than four (4) times
23 annually; and
24

1 4. Compliance with the Administrative Procedures Act, the
2 Oklahoma Open Meeting Act, and such other statutory provisions
3 applicable to boards, commissions, and committees.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6-513.3 of Title 14A, unless
6 there is created a duplication in numbering, reads as follows:

7 A. The Tax Preparer Oversight Board shall:

8 1. Develop and administer the examination for registration as
9 a tax preparer including exemptions for holders of acceptable
10 accreditation credentials;

11 2. Develop and administer forms for use in implementing the
12 provisions of the Tax Preparer Oversight Act including, but not
13 limited to, forms for initial registration and renewal registration;

14 3. Make reports and recommendations to the Commission on
15 Consumer Credit pursuant to the provisions of the Tax Preparer
16 Oversight Act;

17 4. Promulgate rules for adoption by the Commission necessary
18 for the implementation of the provisions of the Tax Preparer
19 Oversight Act. Such rules shall include, but not be limited to:

- 20 a. preparing and administering tests required for
21 registration,
- 22 b. adoption of rules of professional conduct for tax
23 preparers consistent with incompetent and disreputable
24 conduct as defined in Section 10.51 of Circular 230,

1 "Regulations Governing the Practice of Attorneys,
2 Certified Public Accountants, Enrolled Agents,
3 Enrolled Actuaries, and Appraisers" before the
4 Internal Revenue Service Department of the Treasury
5 Internal Revenue Service, Title 31, Code of Federal
6 Regulations, Subtitle A, Part 10,

7 c. standards of service consistent with the Duties and
8 Restrictions relating to Practice Before the Internal
9 Revenue Service as set out in Subpart B of Circular
10 230, "Regulations Governing the Practice of Attorneys,
11 Certified Public Accountants, Enrolled Agents,
12 Enrolled Actuaries, and Appraisers" before the
13 Internal Revenue Service Department of the Treasury
14 Internal Revenue Service, Title 31, Code of Federal
15 Regulations, Subtitle A, Part 10,

16 d. disclosures to clients with regard to outsourcing of
17 work, fees, and true costs of refund anticipation
18 loans, referred to as RALs,

19 e. fee schedules according to statutory authorization,
20 and

21 f. such other matters deemed necessary by the Commission.

22 B. The Administrator of Consumer Affairs shall provide
23 administrative support as needed to the Board.
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1 C. The Commission with the advice of the Board shall make all
2 final decisions regarding rules, applications for registration,
3 educational requirements, fees and penalties regarding the
4 regulation of tax preparers in this State pursuant to the provisions
5 of the Tax Preparer Oversight Act.

6 SECTION 5. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 6-513.4 of Title 14A, unless
8 there is created a duplication in numbering, reads as follows:

9 A. On and after October 1, 2008, no individual shall assist
10 with or prepare or offer to assist with or prepare in any one
11 calendar year five or more tax returns for other individuals or
12 entities or assume final responsibility for completed work on such
13 tax returns on which preliminary work has been done by other
14 individuals for a fee or for other consideration who is not
15 currently registered pursuant to the provisions of the Tax Preparer
16 Oversight Act.

17 1. Until October 1, 2008, as soon as the requirements of
18 paragraphs 1 through 4 of subsection D of this section have been
19 met, any individual or entity who was assisting with or preparing or
20 offering to assist with or prepare tax returns in any one calendar
21 year for five or more tax returns on October 1, 2007, shall be
22 registered as tax preparers;

23 2. On and after October 1, 2008, all individuals or entities
24 wanting to become registered tax preparers shall meet all the

1 requirements of subsection D of this section in order to be
2 registered.

3 B. The initial fee and renewal fee to be a registered tax
4 preparer shall not exceed Two Hundred Dollars (\$200.00) for each
5 individual, corporation, partnership, limited partnership,
6 association or other entity.

7 C. On and after October 1, 2009, an applicant for renewal of
8 registration shall be required to meet the requirements of
9 paragraphs 1 through 4 of subsection D of this section.

10 D. Initial registration shall be granted by the Commission upon
11 payment of the appropriate fee and the filing of an application, to
12 an individual who:

13 1. Is eighteen years of age or older;

14 2. Is of good moral character;

15 3. Has not been convicted of or plead guilty or nolo contendere
16 to a felony in this state, another state, or federal court;

17 4. Has signed as having read and understood the requirements of
18 the rules of professional conduct and the standards enforceable
19 pursuant to the Tax Preparers Oversight Act;

20 5. Has satisfied the education requirements as provided in the
21 Tax Preparer Oversight Act; and

22 6. Has passed a test for tax preparers.

23 E. Initial registration shall be granted by the Commission upon
24 payment of the appropriate fee and the filing of an application, to

1 a corporation, partnership, limited partnership, association or
2 other entity which:

3 1. Provides information identifying the entity and its
4 principals; and

5 2. Provides documentation prescribed by the principals
6 indicating that each has read and understands the requirements of
7 the rules of professional conduct and the standards enforceable
8 pursuant to the Tax Preparers Oversight.

9 F. The Initial registration and renewal registrations shall be
10 valid for two (2) years from the date of issuance.

11 SECTION 6. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 6-513.5 of Title 14A, unless
13 there is created a duplication in numbering, to read as follows:

14 A. In order to be eligible to be registered as a tax preparer
15 the applicant shall, at the time of filing the application have
16 completed a minimum of sixty (60) hours of instruction in basic
17 personal income tax law, theory and practice and ethics from an
18 approved provider.

19 B. The educational requirements required by this subsection may
20 be waived upon a showing by the applicant for registration of
21 technical competency and knowledge by having obtained an
22 accreditation credential from nationally recognized accreditation
23 organization demonstrating competency of training and technical
24 competence and knowledge.

1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6-513.6 of Title 14A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. In order to assure continuing competence of tax preparers in
5 tax law changes, individuals shall furnish evidence of participation
6 in continuing education in tax return preparation. An individual
7 shall complete a minimum of thirty-two (32) hours of continuing
8 education during each two (2) year registration period.

9 B. In lieu of meeting the continuing education requirements at
10 the time of renewal, the tax preparer may provide evidence that the
11 tax preparer seeking registration renewal has obtained or maintained
12 accreditation credentials as provided in Section 6 of this act.

13 SECTION 8. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 6-513.7 of Title 14A, unless
15 there is created a duplication in numbering, reads as follows:

16 A. Registration may be revoked or suspended for violation of
17 any one or more of the following:

- 18 1. Failure to register as a tax preparer;
- 19 2. Make or authorize the making of any statement or
20 presentation oral, written, or recorded by any means which is
21 intended to induce persons to use the tax preparation service of the
22 tax preparer, which statement or representation is fraudulent,
23 untrue, or misleading;

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1 3. Obtain the signature of a client on a tax return or
2 authorizing document which contains blank spaces to be filled in
3 after it has been signed;

4 4. Fail to sign a client tax return when payment for services
5 has been made;

6 5. Knowingly give false or misleading information to the Tax
7 Preparer Oversight Board, the Commission on Consumer Credit or the
8 Administrator of Consumer Credit; or

9 6. Violate any provision of the Tax Preparer Oversight Act or
10 rules.

11 B. Any individual, corporation, partnership, limited
12 partnership, association, or other entity determined to have
13 violated or knowingly participated in the activity of another person
14 in violating any provisions of the Tax Preparer Oversight Act or
15 rule adopted pursuant to the act, may be assessed an administrative
16 civil penalty not to exceed Five Thousand Dollars (\$5,000.00) for
17 any such violation.

18 SECTION 9. This act shall become effective October 1, 2007.

19 SECTION 10. It being immediately necessary for the preservation
20 of the public peace, health and safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval
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