

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1914

By: Anderson

6 AS INTRODUCED

7 An Act relating to Consumer Protection; creating the
8 Oklahoma Tax Return Services Oversight Act; providing
9 short title; defining terms; creating the Oklahoma
10 Tax Return Services Oversight Board; stating
11 responsibilities; directing the Board to advise the
12 Administrator of Consumer Credit and the Commission
13 on Consumer Credit; providing for membership,
14 appointment, terms, vacancy, reappointment, and
15 travel expense; directing Board to promulgate rules;
16 stating content of rules; providing for chair,
17 officers, quorum, meetings and certain compliance
18 with certain provisions of law relating to Boards;
19 granting certain powers and duties to Commission on
20 Consumer Credit; directing promulgation of rules;
21 granting authority over facilitator registrations;
22 requiring minimal standards; directing deposit of
23 certain monies to certain fund; allowing Attorney
24 General to provide legal assistance; establishing
certain seal for certain purpose; requiring certain
reports; stating content of certain reports;
providing for forms and examinations; requiring fee
schedules and standards for publishing and displaying
fee schedules and information; directing Commission
on Consumer Credit make certain decisions; creating
the Oklahoma Tax Return Services Oversight Revolving
Fund; providing for deposits and expenditures;
establishing procedure for application for
registration as facilitator; providing for
application and maximum application fee; exempting
certain persons from registration requirement;
setting expiration date for registrations; providing
for renewals; requiring bond; setting maximum renewal
fee; requiring certain information be displayed at
place of business; providing examples in specific
amounts for loan interest rates; authorizing the

1 Commission on Consumer Credit to establish standards
2 for publishing certain information; requiring
3 disclosure statements for certain information
4 affecting consumer; directing consumer form be
5 provided with disclosure of certain information about
6 fees, loans and conditions; prohibiting loans greater
7 than certain maximum percentage; providing loan
8 calculation method; determining maturity date of
9 certain loans; exempting banks and other financial
10 institutions from certain disclosures; prohibiting
11 certain acts; directing the Commission on Consumer
12 Credit to be governing authority over certain act;
13 allowing hearing officers; prohibiting certain person
14 from being hearing officer; allowing censure,
15 suspension, revocation and refusal to renew
16 registrations for certain conditions; stating
17 prohibited conditions; prohibiting felony conviction
18 from registration; allowing civil penalty; setting
19 maximum civil penalty; requiring annual report by
20 registered facilitator; stating information to be
21 contained in certain report; providing for
22 codification; providing an effective date; and
23 declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 10-101 of Title 14A, unless
there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Tax
Return Services Oversight Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 10-102 of Title 14A, unless
there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Tax Return Services Oversight Act:

1 1. "Advertise" means to produce, distribute, broadcast, or
2 otherwise display, or have displayed, written materials, oral
3 statements, or visual materials describing products or services;

4 2. "Board" means the Oklahoma Tax Return Services Oversight
5 Board;

6 3. "Commission" means the Commission on Consumer Credit;

7 4. "Consumer" means any person who obtains a refund
8 anticipation loan or who takes an assignment of a refund
9 anticipation loan;

10 5. "Creditor" means any person who makes a refund anticipation
11 loan or who takes an assignment of a refund anticipation loan;

12 6. "Enrolled agent" means an individual enrolled to practice
13 before the Internal Revenue Service as provided in Title 31 of the
14 Code of Federal Regulations, Subtitle A, Part 10;

15 7. "Facilitator" means a person that independently or with
16 another person performs any of the following:

17 a. solicits, either directly or indirectly, the execution
18 of, processes, receives, or accepts an application for
19 a refund anticipation loan or refund anticipation
20 check,

21 b. solicits, either directly or indirectly, the execution
22 of, receipt of, or acceptance of an application for a
23 refund anticipation loan or refund anticipation check
24 as a creditor if there is no third-party facilitator,

1 c. services or collects upon a refund anticipation loan
2 or refund anticipation check, or

3 d. facilitates the making of a refund anticipation loan
4 or refund anticipation check in any other manner;

5 8. "Facilitation services" means the execution, acceptance,
6 processing, or receiving of an application for a refund anticipation
7 loan or a refund anticipation check for a fee or other
8 consideration;

9 9. "Person" means an individual, a firm, a partnership, an
10 association, a corporation, or another entity;

11 10. "Refund anticipation check (RAC)" means a check, stored
12 value card, or other payment mechanism:

13 a. representing the proceeds of the tax refund of the
14 consumer,

15 b. that was issued by a depository institution or other
16 person that received a direct deposit of the tax
17 refund or tax credits of the consumer, and

18 c. that the consumer has paid a fee or other
19 consideration to obtain;

20 11. "Refund anticipation loan (RAL)" means:

21 a. a loan that is secured by proceeds of an income tax
22 refund or that a creditor arranges to be repaid
23 directly or indirectly from those proceeds or tax
24 credits of a consumer, or

1 b. any sale, assignment, or purchase of a tax refund of a
2 consumer at a discount or for a fee, whether or not
3 the consumer is required to repay the buyer or
4 assignee if the Internal Revenue Service denies or
5 reduces the tax refund of the consumer;

6 12. "Refund anticipation loan fee" means the charges, fees, or
7 other consideration:

8 a. charged or imposed directly or indirectly by the
9 creditor for the making of or in connection with a
10 refund anticipation loan, or

11 b. charged for a deposit account, if the deposit account
12 is used for receipt of the tax refund of the consumer
13 to repay the amount owed on the loan;

14 13. "Refund anticipation loan interest rate" means the interest
15 rate for a refund anticipation loan calculated pursuant to the
16 provisions of the Oklahoma Tax Return Services Oversight Act; and

17 14. "Registrant" means a person who is authorized to act in
18 this state as a facilitator of refund anticipation loans or refund
19 anticipation checks pursuant to the provisions of the Oklahoma Tax
20 Return Services Oversight Act.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 10-103 of Title 14A, unless
23 there is created a duplication in numbering, reads as follows:

1 A. There is hereby created the Oklahoma Tax Return Services
2 Oversight Board which shall be responsible for the registration and
3 regulation of facilitators for tax anticipated refund loans in the
4 State of Oklahoma. The Board shall advise the Administrator of
5 Consumer Credit and the Commission on Consumer Credit on rules and
6 all other matters relating to the regulation of facilitators for tax
7 anticipated refund loans in this state.

8 B. The Oklahoma Tax Return Services Oversight Board shall
9 consist of five (5) members appointed by the Governor and confirmed
10 by the Senate. Two members shall be persons who have been tax
11 preparers for not less than five (5) years prior to appointment.
12 One member shall be a Certified Public Accountant or Public
13 Accountant who is registered with the Oklahoma Accountancy Board.
14 One member shall be an Enrolled Agent registered with the U.S.
15 Internal Revenue Service. One member shall be a lay citizen who
16 shall serve a term coterminous with that of the appointing Governor.

17 1. Initial appointments shall be as follows:

- 18 a. one tax preparer member shall be appointed to serve a
19 term until October 1, 2011,
- 20 b. one tax preparer member shall be appointed to serve a
21 term until October 1, 2012,
- 22 c. The Certified Public Accountant or Public Accountant
23 member shall be appointed to serve a term until
24 October 1, 2013, and

d. The Enrolled Agent member shall be appointed to serve a term until October 1, 2014;

2. After the initial appointments, except for the lay citizen member, each member shall be appointed to serve a term of five (5) years;

3. Each member shall serve until a successor member is appointed. Members may be reappointed to serve successive terms of membership;

4. Any vacancy occurring in the membership of the Board shall be filled by the Governor in the manner as provided for regular appointments;

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

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

C. The Board shall promulgate rules and procedures which shall include, but not be limited to, the following:

1. Election annually of a chair and such other officers from the membership as deemed necessary;

2. Establishing a quorum of not less than three members to conduct business;

3. Establishing meeting dates of not less than four times annually; and

1 4. Complying with the Administrative Procedures Act, the
2 Oklahoma Open Meeting Act, and such other statutory provisions
3 applicable to boards, commissions, and committees necessary to
4 implement the provisions of this act.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 10-104 of Title 14A, unless
7 there is created a duplication in numbering, reads as follows:

8 In performing the duties imposed pursuant to the Oklahoma Tax
9 Return Services Oversight Act, the Commission on Consumer Credit
10 shall have the following powers and duties:

11 1. To prescribe, promulgate, implement and enforce rules and
12 make such orders as deemed necessary to implement all the provisions
13 of the Oklahoma Tax Return Services Oversight Act, including the
14 duties imposed pursuant to this section;

15 2. To register qualified applicants as facilitators;

16 3. To deny facilitators registration or to suspend, revoke, or
17 reinstate the registration of a facilitator previously issued a
18 registration pursuant to this act, upon good cause shown;

19 4. To reprimand or place on probation a registered facilitator,
20 upon good cause shown;

21 5. To prescribe and impose an administrative penalty or fine as
22 deemed proper by the Board. Such administrative penalty or fine
23 shall be assessed against registered facilitators for the failure to
24 pay the renewal fees or for the violation or noncompliance with any

1 provision of the Oklahoma Tax Return Services Oversight Act or any
2 rule or order of the Commission on Consumer Credit;

3 6. To refer for prosecution any person who violates any of the
4 provisions of the Oklahoma Tax Return Services Oversight Act;

5 7. To establish minimum standards to be followed in the posting
6 of facilitation services fees;

7 8. To establish minimum standards to be followed in providing
8 disclosures required by the Oklahoma Tax Return Services Oversight
9 Act;

10 9. To deposit all fees and administrative fines collected to
11 the credit of the Oklahoma Tax Return Services Oversight Revolving
12 Fund;

13 10. To confer with and seek legal assistance from the Office of
14 the Attorney General whenever deemed appropriate by the Commission
15 on Consumer Credit; and

16 11. To have a seal which shall be affixed to all certificates
17 of registration, certified copies of documents on file, and such
18 other instruments as the Commission on Consumer Credit may direct.
19 All courts in this state shall take judicial notice of the seal, and
20 copies of records and proceedings of the Commission on Consumer
21 Credit, and all documents filed with the Commission and certified
22 under seal shall be received as evidence in all courts of record.

1 SECTION 5. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 10-105 of Title 14A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Tax Return Services Oversight Board shall make
5 reports and recommendations regarding the implementation of the
6 Oklahoma Tax Return Services Oversight Act to the Commission on
7 Consumer Credit. Such reports and recommendations for Commission
8 consideration shall include, but not be limited to:

9 1. Forms for use in implementing the provisions of the Oklahoma
10 Tax Return Services Oversight Act including, but not limited to,
11 forms for initial registration and renewal registration; and

12 2. Rules for adoption by the Commission necessary for the
13 implementation of the provisions of the Oklahoma Tax Return Services
14 Oversight Act. Such rules shall include, but not be limited to:

15 a. preparation and administration of tests required for
16 registration,

17 b. standards for disclosures of fees and costs of
18 facilitation services to consumers,

19 c. fee schedules,

20 d. minimum standards for displaying fee schedules and
21 disclosures regarding facilitation services,

22 e. minimum standards for advertising disclosures of
23 information or offerings of facilitation services to
24 the consumer, and

1 f. other matters deemed necessary by the Commission.

2 B. The Administrator of the Commission of Consumer Credit shall
3 provide administrative support as needed to the Board.

4 C. The Commission on Consumer Credit with the advice of the
5 Board shall make all final decisions regarding rules, applications
6 for registration, educational requirements, fees, administrative
7 penalties and fines, and those other actions deemed necessary by the
8 Commission for the registration and regulation of facilitation
9 services and facilitators in this state pursuant to the provisions
10 of the Oklahoma Tax Return Services Oversight Act.

11 SECTION 6. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 10-106 of Title 14A, unless
13 there is created a duplication in numbering, reads as follows:

14 There is hereby created in the State Treasury a revolving fund
15 for the Commission on Consumer Credit to be designated the "Oklahoma
16 Tax Return Services Oversight Revolving Fund". Beginning July 1,
17 2010, any monies collected pursuant to the Oklahoma Tax Return
18 Services Oversight Act shall be deposited into the Oklahoma Tax
19 Return Services Oversight Revolving Fund. The fund shall be a
20 continuing fund, not subject to fiscal year limitations, and shall
21 consist of all monies received by Commission on Consumer Credit from
22 any transfers, fees, bonds, penalties or fines paid to the
23 Commission on Consumer Credit by the Oklahoma Tax Return Services
24 Oversight Act. All monies accruing to the credit of the fund are

1 hereby appropriated and may be budgeted and expended by the
2 Commission on Consumer Credit for the purpose of effectuating the
3 purposes of the Oklahoma Tax Return Services Oversight Act and to
4 pay all costs and expenses incurred in connection therewith.
5 Expenditures from the fund shall be made upon warrants issued by the
6 State Treasurer against claims filed as prescribed by law with the
7 Director of State Finance for approval and payment.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 10-107 of Title 14A, unless
10 there is created a duplication in numbering, reads as follows:

11 A. Beginning January 1, 2011, any person who desires to provide
12 facilitator services to consumers for a fee or other consideration
13 in this state shall:

14 1. Be approved and registered with the Commission on Consumer
15 Credit, except as otherwise provided in the Oklahoma Tax Return
16 Services Oversight Act;

17 2. Display a fee schedule in a prominent location at each place
18 of business where facilitator services are provided; and

19 3. Display in a prominent location at each place of business
20 where facilitator services are provided a disclosure of limitations
21 and obligations applicable to the consumer regarding facilitation
22 services.

23 B. Beginning January 1, 2011, an initial application for
24 approval and registration as a facilitator shall be in writing,

1 signed under oath, and require information from the applicant on a
2 form prescribed by the Commission on Consumer Credit. Any person
3 who makes application for approval and registration as a facilitator
4 shall pay a fee at the time of application in an amount to be set by
5 the Board which shall not exceed One Hundred Dollars (\$100.00).

6 C. The following persons are exempt from registration as a
7 facilitator pursuant to subsection B of this section and such
8 persons may provide services as follows:

9 1. A person doing business as a bank, thrift, savings
10 association, or credit union, subject to regulation by federal or
11 state law;

12 2. Any person holding a current license or permit issued by the
13 Accountancy Board or the equivalent regulatory agency in another
14 state and staff support personnel while functioning within the scope
15 of their employment; provided, however, employees who sign tax
16 returns and are not registered or licensed by an accountancy board
17 shall not be exempt from the registration requirement in subsection
18 B of this section;

19 3. Any person licensed to practice law in this or any other
20 state and staff support personnel while functioning within the scope
21 of their employment;

22 4. An individual employed by or serving as a volunteer with a
23 nonprofit organization that provides free tax preparation services
24

1 to low and moderate income taxpayers, such as a Volunteer Income Tax
2 Assistance program; and

3 5. An individual who is an enrolled agent.

4 SECTION 8. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 10-108 of Title 14A, unless
6 there is created a duplication in numbering, reads as follows:

7 A. A facilitator registration certificate shall expire on
8 December 31 following the date it was issued.

9 B. Prior to the expiration of the registration certificate, the
10 registered facilitator may renew the registration by filing an
11 application for renewal in the form prescribed by the Board and
12 paying the required fee.

13 C. Upon renewal of a registration certificate, the applicant
14 shall provide proof of the continuing maintenance of any bond
15 required for original registration.

16 D. The renewal fee which shall accompany a renewal application
17 shall be in an amount to be set by the Board which shall not exceed
18 One Hundred Dollars (\$100.00).

19 SECTION 9. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 10-109 of Title 14A, unless
21 there is created a duplication in numbering, reads as follows:

22 A. At each place of business where a registered facilitator
23 provides facilitation services, the facilitator shall cause to be
24 prominently displayed an itemized fee schedule which shall include:

1 1. The fee actually charged for each facilitation service
2 provided; and

3 2. Examples of the interest rates applied to refund
4 anticipation loans demonstrated in at least five different loan
5 amounts, which shall include, but not be limited to, the interest
6 rate for:

7 a. loans of Three Hundred Dollars (\$300.00),

8 b. loans of Five Hundred Dollars (\$500.00),

9 c. loans of One Thousand Dollars (\$1,000.00),

10 d. loans of One Thousand Five Hundred Dollars
11 (\$1,500.00), and

12 e. loans of either Two Thousand Dollars (\$2,000.00) or
13 Five Thousand Dollars (\$5,000.00).

14 B. The Commission on Consumer Credit, upon recommendation from
15 the Oklahoma Tax Return Services Oversight Board shall establish
16 standards for publishing and displaying the fee schedule including,
17 but not limited to, language used, phraseology, and size of the
18 print.

19 SECTION 10. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 10-110 of Title 14A, unless
21 there is created a duplication in numbering, reads as follows:

22 A. In addition to displaying detailed fee schedules at each
23 place of business where facilitation services are provided,
24

disclosures conveying information relating to the loans shall also be displayed as follows:

1. The disclosures displayed shall serve as notice to the consumer of limitations and obligations applicable to the facilitation services being offered; and

2. The disclosures shall address:

a. the fact that with a refund anticipation loan, the consumer is borrowing against a tax refund which has repayment obligations,

b. the time frames for repayment of loans and any accompanying fees,

c. the availability of electronic filing for a tax refund, and

d. the possibility that a refund can be directly deposited into a specific bank account without obtaining a loan or paying fees for an extra product.

B. The Commission, upon recommendation from the Board, shall establish standards for publishing and displaying disclosures required in this section including, but not limited to, language used, phraseology, and size of the print.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-111 of Title 14A, unless there is created a duplication in numbering, reads as follows:

1 A. At the time a consumer applies for a refund anticipation
2 loan or refund anticipation check, in addition to the application
3 provided, the registered facilitator or creditor shall disclose to
4 the consumer on a separate form the following information:

5 1. The fee for the refund anticipation loan or refund
6 anticipation check;

7 2. The fee for tax preparation and any other fee charged to the
8 consumer;

9 3. For refund anticipation loans, the disclosures shall
10 specifically address the following issues:

11 a. the borrowing of money is against the tax refund of
12 the consumer,

13 b. if the tax refund is less than expected, the consumer
14 will still owe the entire amount of the loan, and

15 c. if a tax refund is delayed, the consumer may have to
16 pay additional costs;

17 4. The time within which the proceeds of the refund
18 anticipation loan or refund anticipation check will be paid to the
19 consumer if the loan or check is approved;

20 5. The fact that a tax return may be filed electronically and
21 the refund may be deposited directly into a specific bank account
22 without obtaining a loan or other facilitation service for which a
23 fee would be charged; and

24 6. The interest rate for a refund anticipation loan.

1 B. Prior to consummation of a transaction for a refund
2 anticipation loan or a refund anticipation check, the registered
3 facilitator shall provide to the consumer in a form that shall be
4 retained by the consumer:

5 1. The disclosure statements required in this section;

6 2. A copy of the complete loan or check application and
7 agreement; and

8 3. The disclosure statements required by the federal Truth-In-
9 Lending Act applicable to refund anticipation loans.

10 C. If the registered facilitator at any time provides an
11 estimate of the amount that the consumer shall receive after
12 deducting all applicable fees, the facilitator shall describe the
13 options from which the consumer may choose.

14 D. The Commission, upon recommendation from the Board shall
15 establish standards for the separate disclosure statements required
16 in this section including, but not limited to, language used,
17 phraseology, and size of the print.

18 SECTION 12. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 10-112 of Title 14A, unless
20 there is created a duplication in numbering, reads as follows:

21 A. No person shall make or facilitate a refund anticipation
22 loan for which the interest rate for a refund anticipation loan is
23 greater than thirty-six percent (36%) per annum or the rate set
24 forth in other applicable state law, if any, whichever is lower.

1 B. 1. The interest rate for a refund anticipation loan shall
2 be calculated as follows: the total amount of fees for the refund
3 anticipation loan shall be divided by the loan amount, minus any
4 loan fees, then the amount shall be further divided by the number of
5 days in the loan term, and then multiplied by three hundred sixty-
6 five (365) days, and the resulting figure shall be expressed as a
7 percentage.

8 2. The total amount of the fees for a refund anticipation loan
9 as used in this calculation shall include all refund anticipation
10 loan fees.

11 C. If a deposit account is established or maintained, in whole
12 or in part, for the purpose of receiving the consumer's tax refund
13 to repay the amount owed on a refund anticipation loan:

14 1. The maturity date of the loan for the purpose of determining
15 the refund anticipation loan interest rate shall be assumed to be
16 the estimated date when the tax refund will be deposited in the
17 deposit account; and

18 2. Any fee charged to the consumer for the deposit account
19 shall be considered a loan fee and shall be included in the
20 calculation of the refund anticipation loan interest rate.

21 D. If no deposit account is established or maintained for the
22 repayment of the tax refund loan, the maturity date of the loan
23 shall be assumed to be the estimated date when the tax refund is
24 received by the creditor.

1 E. The provisions of this section shall not apply to persons
2 facilitating for or doing business as a bank, thrift, savings
3 association, or credit union which are subject to regulation
4 pursuant to other federal or state laws.

5 SECTION 13. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 10-113 of Title 14A, unless
7 there is created a duplication in numbering, reads as follows:

8 No person shall:

9 1. Charge or impose any fee, charge or other consideration in
10 the making or facilitating of a refund anticipation loan or refund
11 anticipation check apart from the fee charged by the creditor or
12 bank that provides the loan or check; provided, however, this
13 prohibition shall not include any charge or fee imposed by a
14 registered facilitator to all customers, such as fees for tax return
15 preparation, if the same fee in the same amount is charged to the
16 customers who do not receive refund anticipation loans, refund
17 anticipation checks, or any other tax-related financial product;

18 2. Engage in unfair or deceptive acts or practices in the
19 facilitating of a refund anticipation check or a refund anticipation
20 loan, including making any oral statements contradicting any of the
21 information required to be disclosed under this act;

22 3. Directly or indirectly arrange for a third party to charge
23 any interest, fee or charge related to a refund anticipation loan or
24

1 refund anticipation check, other than the fee imposed by the
2 creditor, including, but not limited to, charges for:

- 3 a. insurance,
- 4 b. attorney fees,
- 5 c. check cashing, or
- 6 d. other collection costs;

7 4. Include any of the following provisions in any document
8 including the loan application, agreement, or disclosure statements
9 presented to the consumer for signature:

- 10 a. a hold harmless clause,
- 11 b. a confession of judgment clause,
- 12 c. a waiver of the right to a jury trial, if applicable,
13 in any action brought by or against the consumer,
- 14 d. any assignment of or order for payment of wages or
15 other compensation for services,
- 16 e. a provision in which the consumer waives the right to
17 assert any claim or defense arising from facilitation
18 services or to seek any private right of action
19 provided for in the Oklahoma Tax Return Services
20 Oversight Act,
- 21 f. a waiver of the right to injunctive, declaratory,
22 other equitable relief, or relief on a class-wide
23 basis, or

1 g. a provision requiring that any aspect of a resolution
2 of a dispute between the parties to the agreement
3 shall be kept confidential. This provision shall not
4 affect the right of the parties to agree that certain
5 specified information is a trade secret or otherwise
6 confidential or to later agree, after the dispute
7 arises, to keep a resolution confidential;

8 5. Take or arrange for a creditor to take a security interest
9 in any property of the consumer other than the proceeds of the tax
10 refund of a consumer to secure payment of a refund anticipation
11 loan;

12 6. Directly or indirectly, individually or in conjunction with
13 another person, engage in the collection of an outstanding refund
14 anticipation loan for any creditor assignee, including soliciting
15 the execution of, processing, receiving, or accepting an application
16 for a refund anticipation loan or refund anticipation check that
17 contains a provision permitting the creditor to repay, by offset or
18 other means, an outstanding refund anticipation loan for that
19 creditor or any creditor from the proceeds of the tax refund of the
20 consumer;

21 7. Refer, facilitate, or solicit consumers on behalf of a third
22 party engaged in check cashing for a fee, or permit third party
23 check cashing for a fee, in any place of business in which refund
24 anticipation loans or refund anticipation checks are facilitated;

1 8. Facilitate any loan that is secured by or that the creditor
2 arranges to be repaid from the proceeds of the state tax refund of
3 the consumer from the State Treasury; or

4 9. Make a misrepresentation of fact in obtaining or attempting
5 to obtain a registration as a facilitator.

6 SECTION 14. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 10-114 of Title 14A, unless
8 there is created a duplication in numbering, reads as follows:

9 A. The Commission on Consumer Credit is hereby charged with the
10 duty of administering the Oklahoma Tax Refund Services Oversight
11 Act. The Commission shall be the sole governmental entity, state,
12 county or municipal, authorized to register persons desiring to
13 provide facilitation services in this state. For the purposes of
14 exercising the powers and performing the duties imposed by the
15 Oklahoma Tax Refund Services Oversight Act, the Commission shall be
16 subject to the provisions of the Administrative Procedures Act.

17 B. The Commission may designate and employ hearing examiners
18 who shall have the authority to conduct hearings subject to the
19 provisions of applicable rules, regulations, and orders of the
20 Commission. No person shall serve as a hearing examiner in any
21 proceeding in which any party to the proceeding is, or has been, a
22 client of the hearing examiner or any partnership, firm,
23 corporation, or other entity with which the hearing examiner is, or
24

1 has been, associated. In any hearing, the burden of proof shall be
2 upon the moving party.

3 SECTION 15. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 10-115 of Title 14A, unless
5 there is created a duplication in numbering, reads as follows:

6 A. The Commission on Consumer Credit shall censure, suspend,
7 revoke or refuse to register a person as a facilitator pursuant to
8 the provisions of the Oklahoma Tax Refund Services Oversight Act if,
9 after a hearing, the Board finds any one or more of the following
10 conditions:

11 1. Any untrue statement in the application for registration;

12 2. The violation of or noncompliance with any provision of the
13 Oklahoma Tax Refund Services Oversight Act or rule, regulation, or
14 order of the Commission;

15 3. The obtaining of or attempt to obtain registration through
16 fraud or misrepresentation;

17 4. Conviction of or plea of guilty or nolo contendere to a
18 felony in this state, another state, or a federal court or of a
19 misdemeanor involving moral turpitude;

20 5. Failure to provide disclosures to consumers pursuant to the
21 provisions of the Oklahoma Tax Refund Services Oversight Act; and

22 6. Failure to display facilitation services fees or provide
23 disclosure statements pursuant to the requirements of the Oklahoma
24 Tax Refund Services Oversight Act.

1 B. In addition to, or in lieu of, any censure, denial,
2 suspension, or revocation of a certificate or permit, any person,
3 firm, corporation, or other entity violating the provisions of the
4 Oklahoma Tax Refund Services Oversight Act shall be subject to a
5 civil penalty in an amount not less than One Hundred Dollars
6 (\$100.00) nor more than Ten Thousand Dollars (\$10,000.00) for each
7 occurrence. The fine may be enforced in the same manner in which
8 civil judgments may be enforced.

9 SECTION 16. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 10-116 of Title 14A, unless
11 there is created a duplication in numbering, reads as follows:

12 On or before July 1 of each year, beginning July 2012, each
13 registered facilitator shall file an annual report with the
14 Commission on Consumer Credit in such form as the Commission shall
15 direct. An annual consolidated report shall be prepared by the
16 Commission and made available to the public. These reports shall
17 include the following information for the time periods of April 15
18 of the prior year to April 15 of that year:

19 1. The total number and dollar amount of refund anticipation
20 loans facilitated by the registrant;

21 2. The total number and dollar amount of refund anticipation
22 checks facilitated by the registrant;

1 3. The average number of days for which refund anticipation
2 loans facilitated by the registrant were outstanding before being
3 repaid;

4 4. The name and address of any creditor or person for whom the
5 registrant facilitates refund anticipation loans or refund
6 anticipation checks; and

7 5. Any other information required by the Commission.

8 SECTION 17. This act shall become effective July 1, 2010.

9 SECTION 18. It being immediately necessary for the preservation
10 of the public peace, health and safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

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