

## BILL ANALYSIS

Senate Research Center

H.B. 1344  
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4/21/2007  
Engrossed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, this state does not require refund anticipation loan facilitators to register with the state nor to disclose certain information to consumers. Refund anticipation loans are short-term cash advances against a taxpayer's anticipated income tax refund. The use of such loans is particularly common among Texans filing for the earned income tax credit. Due to refund anticipation loan annual percentage rates often reaching into triple digits and associated fees, the cost of such a loan often accounts for a significant portion of a taxpayer's refund.

H.B. 1344 requires facilitators to possess an Internal Revenue Service e-file authorization and to register with the Office of the Consumer Credit Commissioner. This bill also requires refund anticipation loan facilitators to disclose certain information to refund anticipation loan customers.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 4, Finance Code, is amended by adding Chapter 351, as follows:

#### CHAPTER 351. TAX REFUND ANTICIPATION LOANS

Sec. 351.001. DEFINITIONS. Defines "borrower," "facilitator," "lender," "refund anticipation loan," and "refund anticipation loan fee."

Sec. 351.002. RESTRICTION ON ACTING AS FACILITATOR. (a) Prohibits a person, individually or in conjunction or cooperation with another person, from acting as a facilitator unless the person meets certain requirements.

(b) Provides that this section does not apply to certain entities and persons.

Sec. 351.003. REGISTRATION OF FACILITATORS. (a) Requires a person to provide certain information to the consumer credit commissioner (commissioner), on or before December 31 preceding each calendar year in which a person seeks to act as a facilitator in order to register as a facilitator.

(b) Requires the commissioner to prescribe the processing fee in an amount necessary to cover the costs of administering this section.

(c) Authorizes a facilitator, after the December 31 deadline, to amend the registration required under Subsection (a) to reflect any change in the information provided by the registration.

(d) Requires the commissioner to make available to the public a list of facilitators registered under this section.

(e) Authorizes the commissioner to prescribe the registration form.

Sec. 351.004. DISCLOSURE REQUIREMENTS. (a) Requires a facilitator to which Section 351.002 applies to discuss with and clearly disclose to a borrower, after the borrower's tax return has been prepared and before the loan is closed, certain information, fees, and documents.

(b) Requires a refund anticipation loan fee schedule required by Subsection (a)(1) to be a listing or table of refund anticipation loan fees charged by the lender for refund anticipation loan amounts. Requires the schedule to list and include certain information related to a fee and a loan.

(c) Requires a facilitator who advertises or markets refund anticipation loans in Spanish to offer any borrower the option of receiving a Spanish-language written disclosure and loan contract. Requires a facilitator who negotiates a loan with a borrower in Spanish to offer that borrower the option of receiving a Spanish-language written disclosure and loan contract.

Sec. 351.005. INVESTIGATION BY COMMISSIONER. Authorizes the commissioner to monitor the operations of a facilitator to ensure compliance with this chapter, and to receive and investigate complaints against a facilitator or a person acting as a facilitator.

Sec. 351.006. REVOCATION OF REGISTRATION. (a) Authorizes the commissioner to revoke the registration of a facilitator if the commissioner concludes that the facilitator has violated this chapter. Requires the commissioner to recite the basis of the decision in an order revoking the registration.

(b) Requires the commissioner or a hearings officer whom the facilitator is entitled to a hearing before to propose a decision to the commissioner if the commissioner proposes a revocation of a registration. Requires the commissioner or hearings officer to prescribe the time and place of the hearing. Provides that the hearing is governed by Chapter 2001 (Administrative Procedure), Government Code.

(c) Entitles a facilitator aggrieved by a ruling, order, or decision of the commissioner to appeal to a district court in the county in which the hearing was held. Provides that an appeal under this subsection is governed by Chapter 2001, Government Code.

Sec. 351.007. ADMINISTRATIVE PENALTY. Authorizes the commissioner to assess an administrative penalty of \$500 against a person for each knowing and wilful violation of this chapter.

Sec. 351.008. PREEMPTION OF LOCAL ORDINANCE. Provides that this chapter preempts a local ordinance or rule regulating refund anticipation loans.

SECTION 2. (a) Effective date: September 1, 2007, except as provided by Subsection (b) of this section.

(b) Effective date of the requirement under Section 351.002(a), that a person who facilitates refund anticipation loans be registered under Section 351.003: January 1, 2008.