

By: Representative Guice

To: Banking and Financial
Services

HOUSE BILL NO. 375

1 AN ACT TO PROHIBIT TAX PREPARERS FROM CHARGING OR ACCEPTING A
2 FEE THAT EXCEEDS A CERTAIN PERCENTAGE OR AMOUNT FOR MAKING OR
3 FACILITATING A REFUND ANTICIPATION LOAN TO A CLIENT; TO PROVIDE
4 THAT IF A TAX PREPARER CHARGES OR ACCEPTS A FEE THAT EXCEEDS THE
5 MAXIMUM AMOUNT ALLOWED, THE TAX PREPARER SHALL FORFEIT THE FULL
6 AMOUNT OF THE FEE, AND THE CLIENT MAY RECOVER THE AMOUNT OF THE
7 FEE BY LEGAL ACTION; TO AUTHORIZE THE STATE TAX COMMISSION TO
8 IMPOSE ON A TAX PREPARER AN ADMINISTRATIVE PENALTY FOR EACH
9 VIOLATION OF THIS ACT; TO REQUIRE THE COMMISSION TO REFER
10 COMPLAINTS ABOUT TAX PREPARERS WHO ARE ALLEGED TO HAVE VIOLATED
11 THE PROVISIONS OF THIS ACT TO THE STATE BOARD OF PUBLIC
12 ACCOUNTANCY OR THE MISSISSIPPI BAR, IF THE TAX PREPARER IS UNDER
13 THEIR JURISDICTION; AND FOR RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1.** (1) For purposes of this section, the following
16 terms have the meanings as provided in this subsection:

17 (a) "Client" means an individual for whom a tax
18 preparer performs or agrees to perform tax preparation services.

19 (b) "Refund anticipation loan" means a loan, whether
20 provided by the tax preparer or another entity such as a financial
21 institution, in anticipation of, and whose payment is secured by,
22 a client's federal or state income tax refund, or both.

23 (c) "Tax preparation services" means services provided
24 for a fee or other consideration to a client to:

25 (i) Assist with preparing or filing federal or
26 state individual income tax returns;

27 (ii) Assume final responsibility for completed
28 work on an individual income tax return on which preliminary work
29 has been done by another; or

30 (iii) Offer or facilitate the provision of refund
31 anticipation loans.

32 (d) "Tax preparer" or "preparer" means a person who
33 provides tax preparation services.

34 (2) No tax preparer shall charge or accept a fee for making
35 or facilitating a refund anticipation loan to a client that
36 exceeds five percent (5%) of the amount of the anticipated income
37 tax refund or Two Hundred Dollars (\$200.00), whichever is less.

38 (3) If a tax preparer charges or accepts a fee that exceeds
39 the maximum amount allowed under subsection (2) of this section,
40 the tax preparer shall forfeit the full amount of the fee, and the
41 client may recover the amount of the fee by legal action, if
42 necessary.

43 (4) The State Tax Commission may impose on a tax preparer an
44 administrative penalty of not more than One Thousand Dollars
45 (\$1,000.00) for each violation of this section. The commission
46 may terminate a tax preparer's authority to transmit returns
47 electronically to the state, if the commissioner determines the
48 tax preparer engaged in a pattern and practice of violating this
49 section.

50 (5) The State Tax Commission shall refer complaints about
51 tax preparers who are alleged to have violated the provisions of
52 this section to:

53 (a) The State Board of Public Accountancy, if the tax
54 preparer is under its jurisdiction; and

55 (b) The Mississippi Bar, if the tax preparer is under
56 its jurisdiction.

57 **SECTION 2.** This act shall take effect and be in force from
58 and after July 1, 2007.