

By: Representatives Upshaw, Buck

To: Banking and Financial Services; Ways and Means

HOUSE BILL NO. 1455

1 AN ACT TO REQUIRE TAX PREPARERS TO MAKE CERTAIN DISCLOSURE TO
 2 CLIENTS ABOUT REFUND ANTICIPATION LOANS IF THE PREPARER OFFERS TO
 3 MAKE OR FACILITATE A REFUND ANTICIPATION LOAN TO THE CLIENT; TO
 4 REQUIRE THAT THE DISCLOSURES MUST BE MADE BEFORE OR AT THE SAME
 5 TIME THE PREPARER OFFERS THE REFUND ANTICIPATION LOAN TO THE
 6 CLIENT; TO REQUIRE TAX PREPARERS TO PROVIDE THE CLIENT WITH AN
 7 ITEMIZED STATEMENT OF THE CHARGES FOR SERVICES, AT LEAST
 8 SEPARATELY STATING THE CHARGES FOR RETURN PREPARATION AND FOR
 9 PROVIDING OR FACILITATING A REFUND ANTICIPATION LOAN; TO PROHIBIT
 10 TAX PREPARERS FROM CHARGING OR ACCEPTING A FEE FOR TAX PREPARATION
 11 SERVICES RELATING TO A REFUND ANTICIPATION LOAN THAT IS BASED UPON
 12 A PERCENTAGE OF THE AMOUNT OF THE ANTICIPATED REFUND; TO AUTHORIZE
 13 THE STATE TAX COMMISSION TO IMPOSE ON A TAX PREPARER AN
 14 ADMINISTRATIVE PENALTY FOR EACH VIOLATION OF THIS ACT; TO REQUIRE
 15 THE COMMISSION TO REFER COMPLAINTS ABOUT TAX PREPARERS WHO ARE
 16 ALLEGED TO HAVE VIOLATED THE PROVISIONS OF THIS ACT TO THE STATE
 17 BOARD OF PUBLIC ACCOUNTANCY OR THE MISSISSIPPI BAR, IF THE TAX
 18 PREPARER IS UNDER THEIR JURISDICTION; AND FOR RELATED PURPOSES.

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

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

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

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

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

30 (i) Assist with preparing or filing state or
 31 federal individual income tax returns;

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

35 (iii) Offer or facilitate the provision of refund
36 anticipation loans.

37 (d) "Tax preparer" or "preparer" means a person
38 providing tax preparation services.

39 (2) If a tax preparer offers to make or facilitate a refund
40 anticipation loan to the client, the preparer must make the
41 disclosures in this section. The disclosures must be made before
42 or at the same time the preparer offers the refund anticipation
43 loan to the client.

44 (3) The tax preparer must provide to a client a written
45 notice on a single sheet of paper, separate from any other
46 document or writing, containing:

47 (a) A legend, centered at the top on the single sheet of
48 paper, in bold, capital letters, and in 28-point type stating
49 "NOTICE";

50 (b) The following verbatim statements:

51 (i) "This is a loan. The annual percentage rate
52 (APR), based on the estimated payment period, is (fill in the
53 estimated APR)."

54 (ii) "Your refund will be used to repay the loan.
55 As a result, the amount of your refund will be reduced by (fill in
56 appropriate dollar amount) for fees, interest, and other charges."

57 (iii) "You can get your refund in about two weeks
58 if you file your return electronically and have the Internal
59 Revenue Service send your refund to your own bank account." and

60 (c) If the client is subject to additional interest when
61 a refund is delayed, the following verbatim statement also must be
62 included in the notice: "If you choose to take this loan and your
63 refund is delayed, you may have to pay additional interest."

64 (4) All required statements must be in capital and small font
65 type fonts, in a minimum of 14-point type, with at least a double
66 space between each line in the statement and four spaces between
67 each statement.

68 (5) The notice must be signed and dated by the tax preparer
69 and the client.

70 (6) A tax preparer must provide the client with an itemized
71 statement of the charges for services, at least separately stating
72 the charges for:

73 (a) return preparation; and

74 (b) providing or facilitating a refund anticipation
75 loan.

76 (7) No tax preparer shall charge, offer to accept, or accept
77 a fee for tax preparation services relating to a refund
78 anticipation loan that is based upon a percentage of the amount of
79 the anticipated refund.

80 (8) The State Tax Commission may impose on a tax preparer an
81 administrative penalty of not more than \$1,000.00 for each
82 violation of this section. The commission may terminate a tax
83 preparer's authority to transmit returns electronically to the
84 state, if the commissioner determines the tax preparer engaged in
85 a pattern and practice of violating this section.

86 (9) The State Tax Commission shall refer complaints about tax
87 preparers who are alleged to have violated the provisions of this
88 section to:

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

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

93 **SECTION 2.** This act shall take effect and be in force from
94 and after July 1, 2006.