

Ordinance No. 121594

Council Bill No. 114996

AN ORDINANCE requiring posting and disclosure of certain information related to income tax refund anticipation loans, refund anticipation checks, and similar refund-related bank products; prohibiting certain practices related to income tax refund anticipation loans, refund anticipation checks, and other similar refund-related bank products; adding a new chapter to Title 7 of the Seattle Municipal Code; and amending Chapter 3.02 of the Seattle Municipal Code.

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The City of Seattle
Council Bill/Ordinance

CF No. _____

Date Introduced:	AUG 16 2004		
Date 1st Referred:	AUG 16 2004	To: (committee)	Housing, Human Services & Health
Date Re - Referred:		To: (committee)	
Date Re - Referred:		To: (committee)	
Date of Final Passage:	9/20/04	Full Council Vote:	8-1 (50)
Date Presented to Mayor:	9/21/04	Date Approved:	10/1/04
Date Returned to City Clerk:	10/1/04	Date Published:	1590
Date Vetted by Mayor:		Date Veto Published:	
Date Passed Over Veto:		Veto Sustained:	

Drafted Rep

Majority Report was Adp
9/20/04 PASSED AS AM

This file is complete and ready

Law Dept. Review

The City of Seattle - Legislative Department RASMUSSEN

Council Bill/Ordinance sponsored by: _____

Councilmember

Committee Action:

AS Amended

Directed Report Pass TR, DP, RM

Do Not Pass JD

Majority Report was Adopted 9/20/04 8-1 (JD)

9/20/04 PASSED AS AMENDED 8-1 (JD)

This file is complete and ready for presentation to Full Council.

Committee: _____

(initial/dec)

Law Dept. Review

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ORDINANCE 121594

AN ORDINANCE requiring posting and disclosure of certain information related to income tax refund anticipation loans, refund anticipation checks, and similar refund-related bank products; prohibiting certain practices related to income tax refund anticipation loans, refund anticipation checks, and other similar refund-related bank products; adding a new chapter to Title 7 of the Seattle Municipal Code; and amending Chapter 3.02 of the Seattle Municipal Code.

WHEREAS, a number of paid commercial tax preparers and other businesses, working with banks, offer their customers "refund anticipation loans," which are short-term loans secured by expected tax refunds that taxpayers sometimes use to get fast access to money they expect to receive from the IRS, "refund anticipation checks," which involve setting up a temporary bank account for a consumer without an account and issuing a check from the temporary account after the IRS has direct deposited the consumer's tax refund, "assisted direct deposit," which involves setting up a temporary account for deposit of a tax refund before transferring the refund to the taxpayer, and other similar products related to income tax refunds; and

WHEREAS, the Seattle City Council has received complaints from citizens and advocates that some tax preparers and other businesses exploit low-income citizens, particularly those entitled to receive the federal Earned Income Tax Credit, by aggressively and sometimes deceptively marketing refund anticipation loans and checks, charging excessive fees and interest (e.g., effective interest rates as high as 700%), and creating a coercive environment that leads taxpayers to apply for refund anticipation loans, refund anticipation checks, and similar products without being fully informed; and

WHEREAS, the City Council invited a panel of representatives to join the Housing, Human Services & Health Committee and discuss current practices relating to refund anticipation loans and checks on April 20, 2004, and those representatives told of abusive practices and serious misrepresentations by some tax preparers and other businesses that offer refund anticipation loans and checks; and

WHEREAS, published reports by consumer groups and governmental agencies echo the complaints the Council has received, and reports by consumer and low-income advocates reveal that the City's most vulnerable citizens are using refund anticipation loans and checks, assisted direct deposit, and other similar products, often without being fully informed about the nature of the products, and in the case of refund anticipation loans, without being given sufficient information to understand that they are taking out a loan that they will have to repay even if the Internal Revenue Service delays or denies their anticipated refunds or rejects a tax credit; and

WHEREAS, several states, counties, and cities have been sufficiently concerned about refund anticipation loans and checks and related practices that they have adopted regulations or issued warnings about such loans and checks, and federal legislation regarding refund anticipation loans and checks has been introduced, but has not yet been enacted; and



1 WHEREAS, although refund anticipation loans are loans against anticipated income tax refunds, the
2 Internal Revenue Service takes the position that it has only limited responsibility for regulating
refund anticipation loans; and

3 WHEREAS, federal banking regulations prohibit local governments from regulating banks and the
4 effective rates of interest they charge; and

5 WHEREAS, refund anticipation loans and checks may serve a useful purpose when fully informed
6 consumers who understand the true nature and cost of such products knowingly choose to take
out such loans, despite their high cost, based on complete and accurate information; and

7 WHEREAS, on August 12, 2004, the City Council held a public hearing on the subject of refund
8 anticipation loans, at which citizens and consumer advocates testified in favor of legislation
9 requiring disclosures about refund anticipation loans, while paid tax preparers testified that they
did not oppose disclosures but preferred federal legislation imposing uniform national disclosure
standards to efforts by individual states and cities to impose disclosure requirements; and

10 WHEREAS, requiring paid tax preparers and other businesses to post and disclose to taxpayers relevant
11 information about refund anticipation loans and checks, assisted directed deposit, and other
similar products will help taxpayers be more fully and accurately informed about such products
and knowingly choose such loans and checks after considering all applicable costs and terms;
and

12 WHEREAS, the Seattle City Council in coordination with the Office of Intergovernmental Relations
13 will work with other local governments within Washington State and the Washington state
legislature to enact similar statewide tax refund anticipation loan legislation and will require
14 inclusion of this work item in its legislative agenda for 2005; NOW, THEREFORE,

15 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

16 Section 1. Effective January 1, 2005, the following new chapter is added to Seattle Municipal
17 Code Title 7:

18 **Chapter 7.26**

19 **REFUND ANTICIPATION LOAN REGULATION**

20 **7.26.010 Short title and purpose.**

21 A. This chapter may be known and be cited as "Refund Anticipation Loan Regulation."

22 This entire chapter shall be deemed an exercise of the police power of the City for the protection of the
23 public economic and social welfare, health, peace and morals, and for the protection of consumers who
24



1 are offered and/or enter into refund anticipation loan, refund anticipation check, assisted direct deposit,
2 and other similar transactions facilitated in the City of Seattle, and shall be liberally construed to
3 effectuate its purpose.

4 B. Nothing in this chapter shall be construed to regulate the practices of lending institutions
5 governed by federal and/or state banking laws.

6 C. Nothing in this chapter shall be construed to relieve a facilitator as defined herein of
7 complying with any legal or regulatory obligation(s) that may apply to it under federal, Washington
8 state, or other local law, including but not limited to the federal Truth-in-Lending Act.

9 **7.26.020 Definitions.**

10 As used in this chapter

11 A. "Assisted direct deposit" or "ADD" means a mechanism or agreement through which a
12 taxpayer's refund is deposited in a bank account other than the taxpayer's, and then the remaining
13 portion of the refund, minus fees to the facilitator and the lender, is deposited in the taxpayer's own
14 account.

15 B. "Bank Product" means a RAL, RAC, ADD, or other similar mechanism, agreement, or
16 transaction that allows a taxpayer to receive an income tax refund or a loan against an anticipated refund
17 from an entity other than the IRS, and/or allows the facilitator to collect fees for its non-Bank Product
18 services or products, Bank Product Fees, and other similar fees from the proceeds of the taxpayer's
19 income tax refund.

20 C. "Bank Product Fee" means all charges, fees, or other consideration charged or imposed
21 by the facilitator and the lender for the making of or in connection with a Bank Product, and includes (i)
22 any charge, fee, or other consideration for a deposit account used for receipt of the taxpayer's tax
23 refund; (ii) processing or administrative fees for Bank Products that are not charged to taxpayers who
24



1 receive their refunds directly from the IRS via mail or direct deposit to the taxpayer's bank account; and
2 (iii) in the case of a RAL, the charges, fees or other consideration charged or imposed by the lender for
3 making the loan. This term does not include any charge, fee, or other consideration usually charged or
4 imposed by the facilitator in the ordinary course of business, such as fees for tax return preparation and
5 fees for electronic filing of tax returns, if the same fees in the same amount are charged to the
6 facilitator's customers who do not use Bank Products.

7 D. "Disclosure" means complete and accurate information, presented in a clear, concise, and
8 understandable manner in all written and oral notices, documents, and explanations required under this
9 chapter.

10 E. "Facilitator" means a person, partnership, corporation or other business entity that, for
11 compensation from a taxpayer or any other person, assists the taxpayer in applying for or obtaining a
12 Bank Product. The term does not include a lender that provides a Bank Product, a servicer for the lender
13 that operates under the lender's name or any person who does not have direct contact with a borrower in
14 connection with applying for or obtaining a Bank Product.

15 F. "Refund anticipation loan" or "RAL" means any loan a taxpayer may receive against his
16 or her anticipated income tax refund.

17 G. "Refund anticipation check" or "RAC" means a check or other payment mechanism: (i)
18 representing proceeds of the taxpayer's tax refund; (ii) which was issued by a depository institution or
19 other person that received a direct deposit of the taxpayer's tax refund; and (iii) for which the taxpayer
20 has paid a fee or other consideration.

21 H. "RAL Annual Percentage Rate" or "APR" is the annualized interest rate for the RAL as
22 determined in accordance with the federal Truth in Lending Act.



I. "Taxpayer" means any natural person who, singly or jointly with another natural person, is solicited for, receives information about, applies for, and/or receives the proceeds of a Bank Product.

7.26.030 Prohibited practices.

A facilitator shall not:

- A. Offer or facilitate a Bank Product except as expressly provided in this chapter;
- B. Require a client to use a Bank Product in order to receive non-Bank Product services or products from the facilitator;
- C. Obtain the signature of a taxpayer on a disclosure required under this chapter that contains blank spaces to be filled in after the taxpayer has signed the disclosure;
- D. For any Bank Product application that has been approved under the facilitator's usual and customary approval procedures, fail to arrange for a Bank Product promptly after the taxpayer applies for the Bank Product and approval is granted; or
- E. Facilitate a Bank Product for which the Bank Product Fee, is greater than the fee stated in the disclosure, or facilitate a RAL for which the APR is greater than the interest rate stated in the disclosure, provided, however, that an increase in an APR on a RAL above the interest stated in the disclosure brought about by a lender's decision to fund a RAL at an amount less than the taxpayer's anticipated refund shall not constitute a violation of this subsection.

7.26.040 Required disclosures and practices.

- A. As set forth more specifically in subsections B through F of this section, if a facilitator offers to make or facilitate a Bank Product for the taxpayer, the facilitator must explain that the taxpayer has a choice of methods for receiving a tax refund, must first disclose the availability and timing of receiving a refund directly from the IRS without using a Bank Product before describing any available



1 Bank Products, and must provide clear, complete, and accurate information about each available option,
2 including receiving a refund directly from the IRS.

3 B. Before or at the same time that the facilitator first mentions or offers a Bank Product to
4 the taxpayer, the facilitator must provide (i) the following disclosures, or disclosures substantially
5 similar in form, content, and scope, for receiving a refund directly from the IRS without incurring fees
6 (other than tax preparation and filing fees); (ii) for each Bank Product offered, the following specific
7 disclosures, or disclosures substantially similar in form, content, and scope, and (iii) if RALs are offered,
8 examples of the APR for RALs of five hundred dollars (\$500.00), one thousand dollars (\$1,000.00), two
9 thousand dollars (\$2,000.00), and five thousand dollars (\$5,000.00) (or at least four other representative
10 loan amounts) as if those loans were made on the same terms as the loan offered to the taxpayer. The
11 required disclosures must be made in writing, separate from any other document or writing, double-
12 spaced, in at least 14-point type, with the heading "Options for Receiving your Refund" or a
13 substantially similar heading. The facilitator must offer the taxpayer the choice of English and Spanish
14 language written versions of the disclosures; and must simultaneously provide a point-by-point oral
15 explanation of the disclosures in English or Spanish as appropriate, or in a language understood by the
16 taxpayer in the event that the taxpayer does not understand the disclosures in English or Spanish (which
17 may be provided using a translator provided by the taxpayer).

18
19 IF YOU ARE ELIGIBLE FOR AN INCOME TAX REFUND, YOU MAY CHOOSE HOW YOU FILE
20 YOUR RETURN AND RECEIVE YOUR REFUND.

21
22 IF YOU FILE YOUR TAX RETURN ELECTRONICALLY AND THE IRS APPROVES YOUR
23 REFUND, THE IRS WILL USUALLY DIRECT DEPOSIT YOUR REFUND INTO YOUR BANK
24



1 ACCOUNT WITHIN ABOUT TWO WEEKS [or such other time as the IRS may announce for a direct
2 deposited refund from an e-filed return], OR WILL SEND YOU A CHECK THROUGH THE MAIL
3 WITHIN ABOUT THREE WEEKS [or such other time as the IRS may announce for a mailed refund
4 from an e-filed return].

5
6 IF YOU MAIL YOUR TAX RETURN TO THE IRS AND THE IRS APPROVES YOUR REFUND,
7 THE IRS WILL USUALLY DIRECT DEPOSIT YOUR REFUND INTO YOUR BANK ACCOUNT
8 WITHIN ABOUT FIVE TO SEVEN WEEKS [or such other time as the IRS may announce for direct
9 deposited refund from an e-filed return], OR WILL SEND YOU A CHECK THROUGH THE MAIL
10 WITHIN ABOUT SIX TO EIGHT WEEKS [or such other time as the IRS may announce for a mailed
11 refund from an e-filed return].

12
13 *[if RACs are offered]*

14 IF YOU DON'T HAVE A BANK ACCOUNT TO RECEIVE A DIRECT DEPOSIT, YOU MAY
15 WANT TO CONSIDER OPENING ONE. WE CAN OPEN A TEMPORARY BANK ACCOUNT
16 FOR YOU AND HELP YOU GET A "REFUND ANTICIPATION CHECK" IN ABOUT TWO
17 WEEKS AFTER YOU FILE ELECTRONICALLY IF THE IRS APPROVES YOUR REFUND, BUT
18 YOU WILL HAVE TO QUALIFY AND YOU WILL HAVE TO PAY A FEE OF [\$\$] TO US AND
19 [\$\$] TO THE BANK.

20
21 *[if RALs are offered]*

22 YOU MAY ALSO BE ELIGIBLE FOR A "REFUND ANTICIPATION LOAN," BUT YOU WILL
23 HAVE TO QUALIFY AND YOU WILL HAVE TO PAY A FEE OF [\$\$] TO US AND [\$\$] TO THE
24



1 BANK. IF YOU ARE APPROVED AND YOU DECIDE TO PROCEED, YOU WILL BE TAKING
2 OUT A LOAN THAT MUST BE PAID BACK WITH INTEREST. YOU WILL BE RESPONSIBLE
3 FOR REPAYING THE ENTIRE LOAN AMOUNT AND ALL RELATED COSTS, FEES, AND
4 INTEREST, REGARDLESS OF HOW MUCH MONEY YOU ACTUALLY RECEIVE FROM THE
5 IRS IN YOUR TAX REFUND. THIS MEANS THAT IF THE IRS REDUCES OR DENIES YOUR
6 REFUND, YOU WILL STILL BE RESPONSIBLE FOR REPAYING THE ENTIRE LOAN AMOUNT
7 AND ALL RELATED COSTS AND FEES.

8
9 C. In addition to the disclosures required under Subsection B, at the time that the taxpayer
10 asks to apply for a Bank Product (or, in the case of Bank Products facilitated by a tax preparer, the
11 sooner of (i) the time the taxpayer asks to apply or (ii) the time the tax preparer determines that the
12 taxpayer may be eligible for a refund and offers the taxpayer a Bank Product), the facilitator must
13 provide the following disclosures, or disclosures substantially similar in form, content, and scope for all
14 Bank Products offered. The foregoing disclosures must be made in writing, separate from any other
15 document or writing, double-spaced, in at least 14-point type. The facilitator must offer the taxpayer the
16 choice of English and Spanish language written versions of the disclosures; and must simultaneously
17 provide a point-by-point oral explanation of the disclosures in English or Spanish as appropriate, or in a
18 language understood by the taxpayer in the event that the taxpayer does not understand the disclosures in
19 English or Spanish (which may be provided using a translator provided by the taxpayer).

20
21 *[for RALs]*

22 YOU ARE NOT REQUIRED TO ENTER INTO THIS REFUND ANTICIPATION LOAN
23 AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS INFORMATION. YOU CAN
24



1 STILL OBTAIN OUR SERVICES AND/OR PRODUCTS EVEN IF YOU DECIDE NOT TO ENTER
2 INTO THIS REFUND ANTICIPATION LOAN AGREEMENT, OR IF YOUR APPLICATION IS
3 DENIED.

4
5 IF YOU DO APPLY FOR A REFUND ANTICIPATION LOAN AND YOUR LOAN IS APPROVED,
6 YOU WILL BE TAKING OUT A LOAN THAT MUST BE PAID BACK WITH INTEREST. YOU
7 WILL BE RESPONSIBLE FOR REPAYING THE ENTIRE LOAN AMOUNT AND ALL RELATED
8 COSTS, FEES, AND INTEREST, REGARDLESS OF HOW MUCH MONEY YOU ACTUALLY
9 RECEIVE IN YOUR TAX REFUND. THIS MEANS THAT IF THE IRS REDUCES OR DENIES
10 YOUR REFUND, YOU WILL STILL BE RESPONSIBLE FOR REPAYING THE ENTIRE LOAN
11 AMOUNT AND ALL RELATED COSTS AND FEES.

12
13 IF YOUR REFUND ANTICIPATION LOAN IS APPROVED, YOU WILL BE RESPONSIBLE TO
14 PAY \$[insert itemized amount] IN FEES, INTEREST, AND OTHER CHARGES FOR THE LOAN,
15 WHICH WE WILL AUTOMATICALLY DEDUCT. AFTER WE DEDUCT THESE FEES, INTEREST,
16 AND OTHER CHARGES FROM YOUR LOAN, YOU WILL RECEIVE APPROXIMATELY \$ [insert
17 amount].

18
19 THE INTEREST RATE ("APR") OF YOUR REFUND ANTICIPATION LOAN IS [insert percentage
20 as defined in Subsection 7.26.020(H)]. THIS IS BASED ON THE ESTIMATED AMOUNT OF TIME
21 YOU WILL BE LENT MONEY THROUGH THIS REFUND ANTICIPATION LOAN. IF THE IRS
22 DELAYS YOUR REFUND, YOU MAY HAVE TO PAY ADDITIONAL INTEREST.



1 IF YOU DO TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU CAN EXPECT TO
2 RECEIVE YOUR LOAN WITHIN APPROXIMATELY TWO DAYS OF ELECTRONICALLY
3 FILING YOUR RETURN, AND YOU WILL BEGIN OWING INTEREST AS OF THAT DATE.

4
5 *[for RACs]*

6 YOU ARE PAYING [insert Bank Product Fee for RAC as defined in Section 7.26.020(C)] TO
7 GET YOUR REFUND VIA A BANK CHECK FROM [insert name of RAC issuer]. YOU CAN
8 AVOID THIS FEE AND STILL RECEIVE YOUR REFUND WITHIN APPROXIMATELY TWO
9 WEEKS BY HAVING THE IRS DIRECT DEPOSIT YOUR REFUND INTO YOUR OWN BANK
10 ACCOUNT, OR WITHIN ABOUT THREE WEEKS IF THE IRS MAILES YOU A CHECK.

11
12 *[for ADD]*

13 YOU ARE BEING OFFERED "ASSISTED DIRECT DEPOSIT," WHICH MEANS THAT
14 YOUR REFUND WILL BE DEPOSITED IN AN ACCOUNT CREATED BY (insert name of Lender).
15 FEES FOR OUR SERVICES AND PRODUCTS AND FOR THE ASSISTED DIRECT DEPOSIT
16 WILL BE DEDUCTED AND THE REMAINING BALANCE WILL THEN BE TRANSFERRED TO
17 YOUR ACCOUNT. THE TOTAL FEES FOR THIS SERVICE ARE [insert Bank Product Fee as
18 defined in Section 7.26.020(C)] IN ADDITION TO THE FEES FOR OTHER SERVICES AND
19 PRODUCTS THAT WE ARE CHARGING YOU.

20 D. Before the facilitator allows the taxpayer to enter into a Bank Product arrangement, the
21 facilitator must (i) complete the disclosures required under Subsection C accurately with all relevant
22 information for each taxpayer, (ii) provide the required point-by-point oral explanation in English,
23 Spanish, or other language understood by the taxpayer (which may be provided using a translator
24



1 provided by the taxpayer), and (iii) complete all blanks in the disclosure form and, only after all blanks
2 are filled, have the form signed and dated by the taxpayer and the facilitator. The facilitator must
3 provide the taxpayer with a copy of the signed disclosures, and must keep a copy of the signed
4 disclosures on file with the taxpayer's records (e.g., tax return or other records of service) in accordance
5 with the facilitator's usual retention procedures.

6 E. At the conclusion of providing services or products, a facilitator must provide an itemized
7 statement of the charges for services, at least separately stating the fees and charges for any of the
8 following charged to the taxpayer: (1) preparing the return; (2) filing the return; (3) providing other
9 services (which services shall be separately itemized); and (4) providing or facilitating a Bank Product,
10 which shall be broken down by provider fees and, where applicable, lender fees. The itemized statement
11 should also clearly indicate that these are charges for services rendered and do not include interest owed
12 or to be owed on the Bank Product.

13 F. The disclosures and practices required in this Section apply to all facilitators that offer to
14 provide or facilitate Bank Products in the City of Seattle, regardless of (i) the medium or means by
15 which they communicate that offer, (ii) the medium or means by which they provide or facilitate the
16 Bank Products, and (iii) whether the facilitator offers to provide or facilitate Bank Products from its own
17 office or premises, or at the taxpayer's office, premises, or residence, provided, however, that nothing in
18 this subsection shall be construed to regulate offers or facilitation conducted solely over the Internet.

19 **7.26.050 Required posting.**

20 A. Every facilitator shall post, in a prominent location on its premises, a written schedule
21 showing separately its current fees for each service or product offered such as preparing the tax return,
22 Bank Products offered or facilitated by the facilitator, the electronic filing of the taxpayer's tax return,
23 and any other service or product.
24



1 B. Every facilitator shall post, in a prominent location on the its premises, the written
2 disclosures required under Subsection 7.26.040(B) and the first two disclosures required under
3 Subsection 7.26.040(C), all of which shall contain the following or a substantially similar legend,
4 centered at the top of the page, in bold, capitalized, one-inch high letters, stating: NOTICE
5 CONCERNING REFUND ANTICIPATION LOANS, REFUND ANTICIPATION CHECKS, AND
6 OTHER BANK PRODUCTS.

7 C. The postings required by this section shall be made in no less than 28-point type and, in
8 the case of a paper disclosure, on a document measuring no less than 16 inches by 20 inches. The
9 postings required in this section shall be displayed in a prominent location at each office, premise, or
10 location where the facilitator is offering or facilitating Bank Products.

11 D. No facilitator may offer or facilitate a Bank Product unless the notices required by this
12 section are displayed, and the interest rate and fees (as applicable) actually charged for the Bank Product
13 are the same as or less than the interest rate or fees displayed in the notices.

14 **7.26.060 Administration and Enforcement.**

15 The Director of the Department of Executive Administration ("Director") shall enforce and
16 administer this chapter, and is hereby authorized to adopt procedures for its implementation. The
17 Director and the Director's duly authorized agents are authorized to enter the premises of any facilitator
18 and inspect all disclosures, postings, and other relevant documents for the purpose of determining
19 compliance with this chapter. The Director and the Director's duly authorized agents are authorized to
20 issue citations for violations of this chapter.



7.26.070 Remedies.

A. A facilitator's failure to comply with any provision of this chapter shall be a Class 1 civil infraction under RCW 7.80.120(1)(a), and shall subject the violator to a maximum monetary penalty and a default amount of Two Hundred Fifty Dollars (\$250.00) for each infraction plus statutory assessments. For purposes of Section 7.26.050, each day of noncompliance shall be a separate violation and the monetary penalties shall accumulate.

B. If a taxpayer believes that he or she has been subjected to any practices that violate any provision set forth in this chapter, the taxpayer may file a complaint against the facilitator with the Office of the Hearing Examiner. The Office of the Hearing Examiner is authorized to hear and decide taxpayer complaints against facilitators regarding violations of this chapter in accordance with rules and procedures then in force governing contested cases, and to order the facilitator to pay damages and penalties to the taxpayer as appropriate as described in this Section. The filing fee for such a case shall be set at five dollars (\$5.00).

1. Upon finding a violation of this chapter, the Hearing Examiner shall award actual damages (including but not limited to the refund of all fees or charges paid by the taxpayer for the Bank Product), the costs of pursuing the complaint, and a penalty of up to Five Hundred Dollars (\$500.00). If the Hearing Examiner determines that the facilitator engaged in prohibited practices in willful violation of this chapter, the penalty mentioned in the preceding sentence shall be Seven Hundred Fifty Dollars (\$750.00), and the Hearing Examiner shall also award attorneys' fees to the taxpayer.

2. The facilitator or taxpayer may obtain judicial review of the decision of the Hearing Examiner by applying for a Writ of Review in the King County Superior Court within fourteen (14) days from the date of the Hearing Examiner's decision in accordance with the procedure set forth in



RCW Ch. 7.16. The decision of the Hearing Examiner shall be final and conclusive unless review is sought in compliance with this subsection.

Section 2. Effective January 1, 2005, a new subsection is added to Section 3.02.125A of the Seattle Municipal Code as follows:

3.02.125 Hearing Examiner filing fees.

A. Filing Fees for hearings before the City Hearing Examiner are as follows:

Basis for hearing	Fee
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* * *

<u>Refund Anticipation Loan (Ch. 7.26)</u>	<u>5</u>
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* * *

Section 3. The Housing, Human Services & Health Committee or a successor committee shall review this ordinance after April 15, 2007 and shall report to the Council by September 1, 2007 on the industry's compliance with the ordinance, the City's enforcement of the ordinance, the regulation of income tax refund anticipation loans and related products by the federal and Washington state governments, and the need for any amendments to the code sections enacted by the ordinance.



Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 20th day of September, 2004, and signed by me in open session in authentication of its passage this 20th day of September, 2004.

Kendrago
President _____ of the City Council

Approved by me this 1st day of October, 2004

Gregory J. Nickels
Gregory J. Nickels, Mayor


Filed by me this 1st day of October, 2004

Michelle E. Lippin
City Clerk

(Seal)



**Legislative Department
Seattle City Council
Memorandum**

Date: September 15, 2004
To: All Councilmembers 
From: Amy Weissman, Central Staff
Subject: Divided Report - C.B. 114996 (Refund Anticipation Loan Regulation)

Attached for your review is a Divided Report on Refund Anticipation Loan legislation, C.B. 114996, which was considered by the Housing, Human Services & Health Committee on September 9, 2004. The legislation passed by a 3-1 vote as explained in the Divided Report. The four Councilmembers named in the Divided Report have reviewed it, suggested edits, and orally approved its content.

This legislation will come to Full Council for a vote on Monday, September 20. A copy of the legislation is attached for your review; in addition, it will appear in your bill books.

If you have any questions or would like to discuss this, please contact me at ext. 5-1675.



Full Council – September 20, 2004

Divided Report – C.B. 114996
(Regulation of Refund Anticipation Loans)
prepared by Amy Weissman, Council Central Staff

At the September 9, 2004 meeting of the Housing, Human Services & Health Committee, Committee members reviewed and discussed C.B. 114996, which would require disclosure and posting of information related to refund anticipation loans, refund anticipation checks, and other products that offer a taxpayer fast access to an expected tax refund. While the products themselves may have some benefits for consumers, there have been reports of lack of full disclosure and predatory lending practices used in conjunction with these products.

C.B. 114996, if adopted, would help educate taxpayers so that they can make informed decisions about these products. Key aspects of the bill include the following:

- **All “Bank Products” Covered:** Not only refund anticipation loans (“RALs”) but also a number of similar products, are covered.
- **All “Facilitators” Covered:** The posting and disclosure requirements apply not only to paid tax preparers but also to any “facilitator” of (i.e., anyone who offers or facilitates) these products.
- **Simplified Mandatory Written Disclosures:** Key points include:
 - The taxpayer is being offered a loan that must be repaid even if the IRS delays, reduces, or denies the taxpayer’s refund.
 - The taxpayer is paying both interest and fees (with taxpayer specific calculations showing fees, interest rates, etc.).
 - The taxpayer can usually get a refund relatively quickly by having the IRS direct deposit the refund into a bank account, in lieu of using a RAL.
 - A taxpayer without a bank account should consider opening one on their own, in lieu of paying the facilitator to open one for them in order to get a refund anticipation check (“RAC”).
- **Disclosures Required at Two Times:** (1) When the facilitator first mentions or offers a RAL or other Bank Product, general disclosures are required, and (2) later, when the taxpayers actually applies for a RAL, more specific disclosures that contain individualized calculations based on the taxpayer’s tax return and anticipated refund are required.
- **Safe Harbor:** The legislation includes a “safe harbor” provision that allows facilitators to use alternative disclosures that are substantially similar in form, content and scope to those the Seattle ordinance requires. As a result, facilitators already using industry best practices would not need to go to the expense of printing new forms, re-training employees, etc.
- **Remedies/Enforcement:** A violation of the ordinance is a civil infraction with a maximum penalty of \$250/infraction. DEA is given enforcement authority and the Hearing Examiner is given jurisdiction to hear complaints, which may result in an award of damages, costs, and penalties.



Minority Position - *Drago*

I agree with the substance of this legislation but object to its passage at this time. Every year the City Council asks the state legislature for help with various issues. Rarely does the reverse happen. Here, not one but two members of the state legislature, Senator Margarita Prentice¹ and Representative Sharon Tomiko Santos, contacted me to urge the Council not to act on this legislation at this time. These legislators would prefer to see state legislation in this arena and have pledged to strive for its passage in the upcoming season. I believe we should honor their request.

I appreciate Councilmember Della's amendment calling for cooperation on state-level legislation but believe it does not go far enough. Once Seattle acts, it may become much more difficult for state legislation to pass, even with our cooperation. Acting now might also impair our relationship with these (and perhaps other) legislators in ways that reverberate beyond the refund anticipation loan legislation.

For this reason I cannot support this legislation at this time.

¹ A copy of Senator Prentice's letter is attached for your review.





Washington State Senate

Olympia Office:
419 John A. Cherberg Building
PO Box 40411
Olympia, WA 98504-0411

Senator Margarita Prentice
11th Legislative District

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August 24, 2004

Jan Drago, President
Seattle City Council
PO Box 34025
Seattle, WA 98124-4025

RECEIVED
AUG 27 2004
JAN DRAGO
COUNCILMEMBER

Dear Jan:

I had the pleasure of serving on the State Senate's Financial Services Committee for many years, either as chair, or as ranking minority. In that position, I've gained a deep appreciation for how financial services are offered to consumers, and how providers of financial services operate. It is vital to both consumers and to providers that they have predictability and be governed from a uniform standard. I truly believe that the best way to approach financial services regulation is on a statewide or federal level.

That is why I'm concerned that the City is proposing to regulate Refund Anticipation Loans by requiring consumer disclosures. The consumer *should* be protected, and appropriate disclosures are the best way to insure that. However, I firmly believe we should be applying these protections to *all* consumers statewide, and at the same time, we should give all financial service providers the same universal rules.

I would ask the City to delay acting on the proposal to give the State Legislature time to enact a statewide regulation. My concern is that if Seattle enacts this legislation, then Renton might enact a slightly different version, then Bellevue and so on, and consumers will have different levels of protection and providers will have to deal with different requirements in each jurisdiction, making compliance difficult, and confusing to consumers.

You are right when you say that the state hasn't enacted regulations on this product, but it is not because we don't want to, or that the financial service lobby has opposed it. Quite the contrary - we haven't acted because no one has asked us to act on this. This is a relatively new product, and we've had little or no consumer complaints that would prompt us to look at it. My years in the legislature have taught me that with the cooperative effort of all the interested parties, we can (and will) get a good piece of legislation that protects consumers and gives flexibility and a uniform set of regulations for providers.



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
City Council	Amy Weissman, Central Staff 206-615-1675	

Legislation Title:

AN ORDINANCE requiring posting and disclosure of certain information related to income tax refund anticipation loans, refund anticipation checks, and similar refund-related bank products; prohibiting certain practices related to income tax refund anticipation loans, refund anticipation checks, and other similar refund-related bank products; adding a new chapter to Title 7 of the Seattle Municipal Code; and amending Chapter 3.02 of the Seattle Municipal Code.

• Summary of the Legislation:

This legislation requires entities that provide tax preparation services and facilitate or offer products that allow taxpayers to get their refunds from an entity other than the Internal Revenue Service to make certain disclosures of important information related to those products. In addition, it vests the Department of Executive Administration with authority to enforce and administer the law, and allows taxpayers to file complaints with the Office of the Hearing Examiner.

• Background: (Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):

Taxpayers use refund anticipation loans ("RALs") to get fast access to money they expect to receive from the IRS. RALs are short-term loans secured by expected tax refunds and typically offered by commercial tax preparers working in partnership with banks. A close cousin of the RAL is the refund anticipation check ("RAC"), which is offered to consumers who do not have bank accounts. RACs involve setting up a temporary bank account to receive the direct deposited refund from the IRS, and then issuing the consumer check from that temporary account after the refund is deposited. Other similar bank products also exist.

RALs and their kin may be beneficial to some consumers who understand the nature and cost of such products, but in many instances RALs appear to be targeted at low-income citizens, particularly recipients of the Earned Income Tax Credit ("EITC"), through aggressive and questionable marketing practices combined with high fees and interest rates (e.g., APRs ranging from 70% to 700%). In recognition of this problem, states, counties, and cities have adopted regulations or issued warnings regarding RALs. This legislation would follow that regulatory trend, using a consumer protection-oriented approach to require certain disclosures and practices to help consumers make informed choices about RALs and related products.



- Please check one of the following:

☐ **This legislation does not have any financial implications.** (Stop here and delete the remainder of this document prior to saving and printing.)

☒ **This legislation has *de minimis* financial implications.** (Please complete all relevant sections that follow.)

Appropriations: This table should reflect appropriations that are a direct result of this legislation. In the event that the project/ programs associated with this ordinance have appropriations that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below.

Fund Name and Number	Department	Budget Control Level*	2004 Appropriation	2005 Anticipated Appropriation
TOTAL				

*See budget book to obtain the appropriate Budget Control Level for your department.

Notes: No appropriations result from this legislation. Some staff resources may be expended to enforce and hear complaints related to this legislation, and there may be small administrative costs such as copying charges and other incidental costs. A \$5 filing fee per complaint with the Office of the Hearing Examiner and small civil infraction fines may offset any small administrative costs. The total financial impact should be *de minimis*.

Anticipated Revenue/Reimbursement: Resulting From This Legislation: This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.

Fund Name and Number	Department	Revenue Source	2004 Revenue	2005 Revenue
TOTAL				

Notes: see above



Total Regular Positions Created Or Abrogated Through This Legislation, Including FTE

Impact: This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the Notes section below the table.

Position Title and Department*	Fund Name	Fund Number	Part-Time/Full Time	2004 Positions	2004 FTE	2005 Positions**	2005 FTE**
TOTAL							

* List each position separately

** 2005 positions and FTE are total 2005 position changes resulting from this legislation, not incremental changes. Therefore, under 2005, please be sure to include any continuing positions from 2004

Notes: None

- **Do positions sunset in the future?** (If yes, identify sunset date):

Spending/Cash Flow: This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.

Fund Name and Number	Department	Budget Control Level*	2004 Expenditures	2005 Anticipated Expenditures
TOTAL				

* See budget book to obtain the appropriate Budget Control Level for your department.

Notes: N/A

- **What is the financial cost of not implementing the legislation?** (Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)



If this legislation is not implemented, the citizens of Seattle will continue to be exploited by entities that offer RALs and related products, and a significant portion of the Earned Income Tax Credit that helps working families will be diverted from those families to the hands of commercial tax preparers.

- What are the possible alternatives to the legislation that could achieve the same or similar objectives? *(Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)*

An education campaign to alert the public to RALs and similar products will be undertaken, whether or not this legislation proceeds. Council could wait for state or federal legislation to achieve a similar objective, although it is not clear if or when such legislation might be enacted.

- Is the legislation subject to public hearing requirements: *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)*

A public hearing was held on August 12, 2004.

- Other Issues *(including long-term implications of the legislation):*

Please list attachments to the fiscal note below:

None.

ORDINANCE

AN ORDINANCE requiring posting and disclosure of certain information related to income tax refund anticipation loans, refund anticipation checks, and similar refund-related bank products; prohibiting certain practices related to income tax refund anticipation loans, refund anticipation checks, and other similar refund-related bank products; adding a new chapter to Title 7 of the Seattle Municipal Code; and amending Chapter 3.02 of the Seattle Municipal Code.

WHEREAS, a number of paid commercial tax preparers, working with banks, offer their customers "refund anticipation loans," which are short-term loans secured by expected tax refunds that taxpayers sometimes use to get fast access to money they expect to receive from the IRS, "refund anticipation checks," which involve setting up a temporary bank account for a consumer without an account and issuing a check from the temporary account after the IRS has direct deposited the consumer's tax refund, "assisted direct deposit," which involves setting up a temporary account for deposit of a tax refund before transferring the refund to the taxpayer, and other similar products related to income tax refunds; and

WHEREAS, the Seattle City Council has received complaints from citizens and advocates that some tax preparers exploit low-income citizens, particularly those entitled to receive the federal Earned Income Tax Credit, by aggressively and sometimes deceptively marketing refund anticipation loans and checks, charging excessive fees and interest (e.g., effective interest rates as high as 700%), and creating a coercive environment that leads taxpayers to apply for refund anticipation loans, refund anticipation checks, and similar products without being fully informed; and

WHEREAS, the City Council invited a panel of representatives to join the Housing, Human Services & Health Committee and discuss current practices relating to refund anticipation loans and checks on April 20, 2004, and those representatives told of abusive practices and serious misrepresentations by some tax preparers that offer refund anticipation loans and checks; and

WHEREAS, published reports by consumer groups and governmental agencies echo the complaints the Council has received, and reports by consumer and low-income advocates reveal that the City's most vulnerable citizens are using refund anticipation loans and checks, assisted direct deposit, and other similar products, often without being fully informed about the nature of the products, and in the case of refund anticipation loans, without being given sufficient information to understand that they are taking out a loan that they will have to repay even if the Internal Revenue Service delays or denies their anticipated refunds or rejects a tax credit; and

WHEREAS, several states, counties, and cities have been sufficiently concerned about refund anticipation loans and checks and related practices that they have adopted regulations or issued warnings about such loans and checks, and federal legislation regarding refund anticipation loans and checks has been introduced, but has not yet been enacted; and

WHEREAS, although refund anticipation loans are loans against anticipated income tax refunds, the Internal Revenue Service takes the position that it has only limited responsibility for regulating refund anticipation loans; and



1 WHEREAS, federal banking regulations prohibit local governments from regulating banks and the
2 effective rates of interest they charge; and

3 WHEREAS, refund anticipation loans and checks may serve a useful purpose when fully informed
4 consumers who understand the true nature and cost of such products knowingly choose to take
out such a loan, despite its high cost, based on complete and accurate information; and

5 WHEREAS, on August 12, 2004, the City Council held a public hearing on the subject of refund
6 anticipation loans, at which citizens and consumer advocates testified in favor of legislation
7 requiring disclosures about refund anticipation loans, while paid tax preparers testified that they
did not oppose disclosures but preferred federal legislation imposing uniform national disclosure
standards to efforts by individual states and cities to impose disclosure requirements; and

8 WHEREAS, requiring paid tax preparers to post and disclose to taxpayers relevant information about
9 refund anticipation loans and checks, assisted directed deposit, and other similar products will
help taxpayers be more fully and accurately informed about such products and knowingly choose
such loans and checks after considering all applicable costs and terms; NOW, THEREFORE,

10 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

11 Section 1. Effective January 1, 2005, the following new chapter is added to Seattle Municipal
12 Code Title 7:

13 **Chapter 7.26**

14 **REFUND ANTICIPATION LOAN REGULATION**

15 **7.26.010 Short title and purpose.**

16 A. This chapter may be known and be cited as "Refund Anticipation Loan Regulation."

17 This entire chapter shall be deemed an exercise of the police power of the City for the protection of the
18 public economic and social welfare, health, peace and morals, and for the protection of consumers who
19 are offered and/or enter into refund anticipation loan, refund anticipation check, assisted direct deposit,
20 and other similar transactions facilitated in the City of Seattle, and shall be liberally construed to
21 effectuate its purpose.
22
23
24



1 B. Nothing in this chapter shall be construed to regulate the practices of lending institutions
2 governed by federal and/or state banking laws.

3 C. Nothing in this chapter shall be construed to relieve a paid tax preparer of complying
4 with any legal or regulatory obligation(s) that may apply to it under federal, Washington state, or other
5 local law, including but not limited to the federal Truth-in-Lending Act.

6 **7.26.020 Definitions.**

7 As used in this chapter

8 A. "Assisted direct deposit" or "ADD" means a mechanism or agreement through which a
9 taxpayer's refund is deposited in a bank account other than the taxpayer's, and then the remaining
10 portion of the refund, minus fees to the paid tax preparer and the lender, is deposited in the taxpayer's
11 own account.

12 B. "Bank Product" means a RAL, RAC, ADD, or other similar mechanism, agreement, or
13 transaction that allows a taxpayer to receive an income tax refund or a loan against an anticipated refund
14 from an entity other than the IRS, and/or allows the paid tax preparer to collect tax preparation fees,
15 Bank Product Fees, and other similar fees from the proceeds of the taxpayer's income tax refund.

16 C. "Bank Product Fee" means all charges, fees, or other consideration charged or imposed
17 by the paid tax preparer and the lender for the making of or in connection with a Bank Product, and
18 includes (i) any charge, fee, or other consideration for a deposit account, if the deposit account is used
19 for receipt of the taxpayer's tax refund to repay the amount owed on the loan; (ii) processing or
20 administrative fees for Bank Products that are not charged to taxpayers who receive their refunds
21 directly from the IRS via mail or direct deposit to the taxpayer's bank account; and (iii) in the case of a
22 RAL, the charges, fees or other consideration charged or imposed by the lender for making the loan.
23 This term does not include any charge, fee, or other consideration usually charged or imposed by the
24



1 paid tax preparer in the ordinary course of business, such as fees for tax return preparation and fees for
2 electronic filing of tax returns, if the same fees in the same amount are charged to the paid tax preparer's
3 customers who do not use Bank Products.

4 D. "Disclosure" means complete and accurate information, presented in a clear, concise, and
5 understandable manner in all written and oral notices, documents, and explanations required under this
6 chapter.

7 E. "Paid tax preparer" or "preparer" means a person, partnership, corporation, or other
8 business entity, that for valuable consideration advises, assists, or offers to advise or assist in the
9 preparation of income tax returns for a taxpayer.

10 F. "Refund anticipation loan" or "RAL" means any loan a taxpayer may receive against his
11 or her anticipated income tax refund.

12 G. "Refund anticipation check" or "RAC" means a check or other payment mechanism: (i)
13 representing proceeds of the taxpayer's tax refund; (ii) which was issued by a depository institution or
14 other person that received a direct deposit of the taxpayer's tax refund; and (iii) for which the taxpayer
15 has paid a fee or other consideration.

16 H. "RAL Interest Rate" is the annualized interest rate for the RAL, which is calculated by
17 using the following formula: Bank Product Fee for the RAL divided by loan amount, divided by
18 estimated days in loan term (as determined by the average time announced by the IRS within which the
19 taxpayer can expect to receive a tax refund by mail from an e-filed return without using a RAL), then
20 multiplied by 365 and expressed as a percentage. The total amount of the Bank Product Fee for the
21 RAL used in this calculation shall include all fees as defined in Subsection C. If a deposit account is
22 established or maintained in whole or in part for the purpose of receiving the taxpayer's tax refund to
23 repay the amount owed on a refund anticipation loan: (i) the maturity of the loan for the purpose of
24



determining the refund anticipation loan interest rate shall be assumed to be the estimated date when the tax refund will be deposited in the deposit account, as determined by the average time announced by the IRS within which the taxpayer can expect to receive a tax refund by mail from an e-filed return without using a RAL; and (ii) any fee charged to the taxpayer for such deposit account shall be considered a loan fee and shall be included in the calculation of the refund anticipation loan interest rate.

I. "Taxpayer" means any natural person who, singly or jointly with another natural person, is solicited for, receives information about, applies for, and/or receives the proceeds of a Bank Product.

7.26.030 Prohibited practices.

A paid tax preparer shall not:

- A. Offer or facilitate a Bank Product except as expressly provided in this chapter;
- B. Require a client to use a Bank Product in order to receive tax preparation and income tax return services from the paid tax preparer;
- C. Obtain the signature of a taxpayer on a disclosure required under this chapter that contains blank spaces to be filled in after the disclosure has been signed;
- D. For any Bank Product application that has been approved under the paid tax preparer's usual and customary approval procedures, fail to arrange for a Bank Product promptly after the taxpayer applies for the Bank Product and approval is granted; or
- E. Facilitate a Bank Product for which the Bank Product Fee or, in the case of a RAL, the RAL Interest Rate, is greater than the fee or interest rate stated in the disclosure.

7.26.040 Required disclosures and practices.

- A. If a paid tax preparer offers to make or facilitate a Bank Product for the taxpayer, the preparer must explain that the taxpayer has a choice of methods for receiving a tax refund, must first disclose the availability and timing of receiving a refund directly from the IRS without using a Bank



1 Product before describing any available Bank Products, and must provide clear, complete, and accurate
2 information about each available option, including receiving a refund directly from the IRS.

3 B. Before or at the same time that the paid tax preparer begins providing tax preparation
4 services to the taxpayer, the preparer must provide (i) the following disclosures, or disclosures
5 substantially similar in form, content, and scope, for receiving a refund directly from the IRS without
6 incurring fees other than tax preparation and filing fees; (ii) for each Bank Product offered, the
7 following specific disclosures, or disclosures substantially similar in form, content, and scope, and (iii) if
8 RALs are offered, examples of the RAL Interest Rate for RALs of five hundred dollars (\$500.00), one
9 thousand dollars (\$1,000.00), two thousand dollars (\$2,000.00), and five thousand dollars (\$5,000.00) as
10 if those loans were made on the same terms as the loan offered to the taxpayer. The required disclosures
11 must be made in writing, separate from any other document or writing, double-spaced, in at least 14-
12 point type, with the heading "Options for Receiving your Refund" or a substantially similar heading.
13 The preparer must offer the taxpayer the choice of English and Spanish language written versions of the
14 disclosures; and must simultaneously provide a point-by-point oral explanation of the disclosures in
15 English or Spanish as appropriate, or in a language understood by the taxpayer in the event that the
16 taxpayer does not understand the disclosures in English or Spanish (which may be provided using a
17 translator provided by the taxpayer).

18
19 IF YOU ARE ELIGIBLE FOR AN INCOME TAX REFUND, YOU MAY CHOOSE HOW YOU FILE
20 YOUR RETURN AND RECEIVE YOUR REFUND.

21
22 IF YOU FILE YOUR TAX RETURN ELECTRONICALLY AND THE IRS APPROVES YOUR
23 REFUND, THE IRS WILL USUALLY DIRECT DEPOSIT YOUR REFUND INTO YOUR BANK
24



1 ACCOUNT WITHIN ABOUT TWO WEEKS [or such other time as the IRS may announce for a direct
2 deposited refund from an e-filed return], OR WILL SEND YOU A CHECK THROUGH THE MAIL
3 WITHIN ABOUT THREE WEEKS [or such other time as the IRS may announce for a mailed refund
4 from an e-filed return].

5
6 IF YOU MAIL YOUR TAX RETURN TO THE IRS AND THE IRS APPROVES YOUR REFUND,
7 THE IRS WILL USUALLY DIRECT DEPOSIT YOUR REFUND INTO YOUR BANK ACCOUNT
8 WITHIN ABOUT FIVE TO SEVEN WEEKS [or such other time as the IRS may announce for direct
9 deposited refund from an e-filed return], OR WILL SEND YOU A CHECK THROUGH THE MAIL
10 WITHIN ABOUT SIX TO EIGHT WEEKS [or such other time as the IRS may announce for a mailed
11 refund from an e-filed return].

12
13 *[if RACs are offered]*

14 IF YOU DON'T HAVE A BANK ACCOUNT TO RECEIVE A DIRECT DEPOSIT, YOU MAY
15 WANT TO CONSIDER OPENING ONE. WE CAN OPEN A TEMPORARY BANK ACCOUNT
16 FOR YOU AND HELP YOU GET A "REFUND ANTICIPATION CHECK" IN ABOUT TWO
17 WEEKS AFTER YOU FILE ELECTRONICALLY IF THE IRS APPROVES YOUR REFUND, BUT
18 YOU WILL HAVE TO QUALIFY AND YOU WILL HAVE TO PAY A FEE OF [\$\$] TO US AND
19 [\$\$] TO THE BANK.

20
21 *[if RALs are offered]*

22 YOU MAY ALSO BE ELIGIBLE FOR A "REFUND ANTICIPATION LOAN," BUT YOU WILL
23 HAVE TO QUALIFY AND YOU WILL HAVE TO PAY A FEE OF [\$\$] TO US AND [\$\$] TO THE
24



1 BANK. IF YOU ARE APPROVED AND YOU DECIDE TO PROCEED, YOU WILL BE TAKING
2 OUT A LOAN THAT MUST BE PAID BACK WITH INTEREST. YOU WILL BE RESPONSIBLE
3 FOR REPAYING THE ENTIRE LOAN AMOUNT AND ALL RELATED COSTS, FEES, AND
4 INTEREST, REGARDLESS OF HOW MUCH MONEY YOU ACTUALLY RECEIVE FROM THE
5 IRS IN YOUR TAX REFUND. THIS MEANS THAT IF THE IRS REDUCES OR DENIES YOUR
6 REFUND, YOU WILL STILL BE RESPONSIBLE FOR REPAYING THE ENTIRE LOAN AMOUNT
7 AND ALL RELATED COSTS AND FEES.

8
9 C. In addition to the disclosures required under Subsection B, at the time that the taxpayer
10 asks to apply for a Bank Product or the paid tax preparer determines that the taxpayer may be eligible
11 for a refund and offers the taxpayer a Bank Product, whichever is sooner, the preparer must provide the
12 following disclosures, or disclosures substantially similar in form, content, and scope for all Bank
13 Products offered. The foregoing disclosures must be made in writing, separate from any other document
14 or writing, double-spaced, in at least 14-point type. The preparer must offer the taxpayer the choice of
15 English and Spanish language written versions of the disclosures; and must simultaneously provide a
16 point-by-point oral explanation of the disclosures in English or Spanish as appropriate, or in a language
17 understood by the taxpayer in the event that the taxpayer does not understand the disclosures in English
18 or Spanish (which may be provided using a translator provided by the taxpayer).

19
20 [for RALs]

21 YOU ARE NOT REQUIRED TO ENTER INTO THIS REFUND ANTICIPATION LOAN
22 AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS INFORMATION. YOU CAN
23 STILL GET TAX PREPARATION ASSISTANCE FROM US EVEN IF YOU DECIDE NOT TO
24

1 ENTER INTO THIS REFUND ANTICIPATION LOAN AGREEMENT, OR IF YOUR
2 APPLICATION IS DENIED.

3
4 IF YOU DO APPLY FOR A REFUND ANTICIPATION LOAN AND YOUR LOAN IS APPROVED,
5 YOU WILL BE TAKING OUT A LOAN THAT MUST BE PAID BACK WITH INTEREST. YOU
6 WILL BE RESPONSIBLE FOR REPAYING THE ENTIRE LOAN AMOUNT AND ALL RELATED
7 COSTS, FEES, AND INTEREST, REGARDLESS OF HOW MUCH MONEY YOU ACTUALLY
8 RECEIVE IN YOUR TAX REFUND. THIS MEANS THAT IF THE IRS REDUCES OR DENIES
9 YOUR REFUND, YOU WILL STILL BE RESPONSIBLE FOR REPAYING THE ENTIRE LOAN
10 AMOUNT AND ALL RELATED COSTS AND FEES.

11
12 IF YOUR REFUND ANTICIPATION LOAN IS APPROVED, YOU WILL BE RESPONSIBLE TO
13 PAY \$[insert itemized amount] IN FEES, INTEREST, AND OTHER CHARGES FOR THE LOAN.
14 AFTER THESE FEES, INTEREST, AND OTHER CHARGES ARE DEDUCTED FROM YOUR
15 LOAN, YOU WILL RECEIVE APPROXIMATELY \$ [insert amount].

16
17 THE INTEREST RATE OF YOUR REFUND ANTICIPATION LOAN IS [insert percentage as defined
18 in Subsection 7.26.020(H)]. THIS IS BASED ON THE ESTIMATED AMOUNT OF TIME YOU
19 WILL BE LENT MONEY THROUGH THIS REFUND ANTICIPATION LOAN. IF THE IRS
20 DELAYS YOUR REFUND, YOU MAY HAVE TO PAY ADDITIONAL INTEREST.



1 IF YOU DO TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU CAN EXPECT TO
2 RECEIVE YOUR LOAN WITHIN APPROXIMATELY TWO DAYS OF ELECTRONICALLY
3 FILING YOUR RETURN, AND YOU WILL BEGIN OWING INTEREST AS OF THAT DATE.

4
5 *[for RACs]*

6 YOU ARE PAYING [insert Bank Product Fee for RAC as defined in Section 7.26.020©] TO
7 GET YOUR REFUND VIA A BANK CHECK FROM [insert name of RAC issuer]. YOU CAN
8 AVOID THIS FEE AND STILL RECEIVE YOUR REFUND WITHIN APPROXIMATELY TWO
9 WEEKS BY HAVING THE IRS DIRECT DEPOSIT YOUR REFUND INTO YOUR OWN BANK
10 ACCOUNT, OR WITHIN ABOUT THREE WEEKS IF THE IRS MAILES YOU A CHECK.

11
12 *[for ADD]*

13 YOU ARE BEING OFFERED "ASSISTED DIRECT DEPOSIT," WHICH MEANS THAT
14 YOUR REFUND WILL BE DEPOSITED IN AN ACCOUNT CREATED BY (insert name of Lender).
15 FEES FOR TAX PREPARATION AND FOR THE ASSISTED DIRECT DEPOSIT WILL BE
16 DEDUCTED AND THE REMAINING BALANCE WILL THEN BE TRANSFERRED TO YOUR
17 ACCOUNT. THE TOTAL FEES FOR THIS SERVICE ARE [insert Bank Product Fee as defined in
18 Section 7.26.020(C)] IN ADDITION TO THE TAX PREPARATION FEES WE ARE CHARGING
19 YOU.

20 D. Before the paid tax preparer allows the taxpayer to enter into a Bank Product
21 arrangement, the paid tax preparer must (i) complete the disclosures required under Subsection C
22 accurately with all relevant information for each taxpayer, (ii) provide the required point-by-point oral
23 explanation in English, Spanish, or other language understood by the taxpayer, and (iii) must complete
24



1 all blanks in the disclosure form and, only after all blanks are filled, have the form signed and dated by
2 the taxpayer and the preparer. The paid tax preparer must provide the taxpayer with a copy of the signed
3 disclosures, and must keep a copy of the signed disclosures on file with the taxpayer's tax return in
4 accordance with the preparer's usual retention procedures.

5 E. At the conclusion of providing services, a paid tax preparer must provide an itemized
6 statement of the charges for services, at least separately stating the fees and charges for: (1) preparing
7 the return; (2) filing the return; and (3) providing or facilitating a Bank Product, which shall be broken
8 down by provider fees and, where applicable, lender fees. The itemized statement should also clearly
9 indicate that these are charges for services rendered and do not include interest owed or to be owed on
10 the Bank Product.

11 F. The disclosures and practices required in this Section apply to all paid tax preparers that
12 offer to provide or facilitate Bank Products in the City of Seattle, regardless of (i) the medium or means
13 by which they communicate that offer, (ii) the medium or means by which they provide or facilitate the
14 Bank Products, and (iii) whether the preparer offers to provide or facilitate Bank Products from its own
15 office or premises, or at the taxpayer's office, premises, or residence.

16 **7.26.050 Required posting.**

17 A. Every paid tax preparer shall post, in a prominent location on the preparer's premises, a
18 written schedule showing its current fees for preparing the tax return, Bank Products offered or
19 facilitated by the preparer, and the electronic filing of the taxpayer's tax return.

20 B. Every paid tax preparer shall post, in a prominent location on the preparer's premises, the
21 written disclosures required under Subsections 7.26.040(B) and (C), all of which shall contain the
22 following or a substantially similar legend, centered at the top of the page, in bold, capitalized, one-inch
23
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high letters, stating: NOTICE CONCERNING REFUND ANTICIPATION LOANS, REFUND ANTICIPATION CHECKS, AND OTHER BANK PRODUCTS.

C. The postings required by this section shall be made in no less than 28-point type and, in the case of a paper disclosure, on a document measuring no less than 16 inches by 20 inches. The postings required in this section shall be displayed in a prominent location at each office, premise, or location where the paid tax preparer is facilitating Bank Products.

D. No paid tax preparer may facilitate a Bank Product unless the notices required by this section are displayed, and the interest rate and fees (as applicable) actually charged for the Bank Product are the same as or less than the interest rate or fees displayed in the notices.

7.26.060 Administration and Enforcement.

The Director of the Department of Executive Administration ("Director") shall enforce and administer this chapter. The Director and the Director's duly authorized agents are authorized to enter the premises of any paid tax preparer and inspect all disclosures, postings, and other relevant documents for the purpose of determining compliance with this chapter. The Director and the Director's duly authorized agents are authorized to issue citations for violations of this chapter.

7.26.070 Remedies.

A. The failure of a paid tax preparer to comply with any provision of this chapter shall be a Class 1 civil infraction under RCW 7.80.120(1)(a), and shall subject the violator to a maximum monetary penalty and a default amount of Two Hundred Fifty Dollars (\$250.00) for each infraction plus statutory assessments. For purposes of Section 7.26.050, each day of noncompliance shall be a separate violation and the monetary penalties shall accumulate.

B. If a taxpayer believes that he or she has been subjected to any practices that violate any provision set forth in this chapter, the taxpayer may file a complaint against the paid tax preparer with



the Office of the Hearing Examiner. The Office of the Hearing Examiner is authorized to hear and decide taxpayer complaints against paid tax preparers regarding violations of this chapter in accordance with rules and procedures then in force governing contested cases, and to order the paid tax preparer to pay damages and penalties to the taxpayer as appropriate as described in this Section. The filing fee for such a case shall be set at five dollars (\$5.00).

1. Upon finding a violation of this chapter, the Hearing Examiner shall award actual damages (including but not limited to the refund of all fees or charges paid by the taxpayer for the Bank Product), the costs of pursuing the complaint, and a penalty of up to Five Hundred Dollars (\$500.00). If the Hearing Examiner determines that the paid tax preparer engaged in prohibited practices in willful violation of this chapter, the penalty mentioned in the preceding sentence shall be Seven Hundred Fifty Dollars (\$750.00), and the Hearing Examiner shall also award attorneys' fees to the taxpayer.

2. The paid tax preparer or taxpayer may obtain judicial review of the decision of the Hearing Examiner by applying for a Writ of Review in the King County Superior Court within fourteen (14) days from the date of the Hearing Examiner's decision in accordance with the procedure set forth in RCW Ch. 7.16. The decision of the Hearing Examiner shall be final and conclusive unless review is sought in compliance with this subsection.

Section 2. Effective January 1, 2005, a new subsection is added to Section 3.02.125A of the Seattle Municipal Code as follows:

3.02.125 Hearing Examiner filing fees.

A. Filing Fees for hearings before the City Hearing Examiner are as follows:

Basis for hearing

Fee

* * *



Refund Anticipation Loan (Ch. 7.26) 5

* * *

Section 3. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of ____, 20__, and signed by me in open session in authentication of its passage this ____ day of ____, 20__.

President _____ of the City Council

Approved by me this ____ day of ____, 20__.

Gregory J. Nickels, Mayor

Filed by me this ____ day of ____, 20__.

City Clerk

(Seal)



STATE OF WASHINGTON – KING COUNTY

--SS.

177523
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

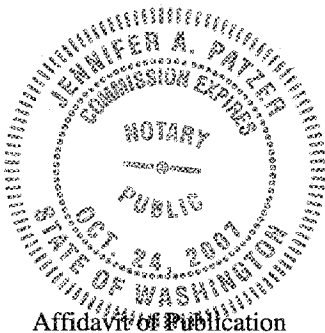
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:121594 TITLE ONLY

was published on

10/5/2004



Michael D. L.

Subscribed and sworn to before me on

10/5/2004

[Signature]

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on September 20, 2004, and published here by title only, will be mailed upon request, or can be accessed electronically at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 121594

AN ORDINANCE requiring posting and disclosure of certain information related to income tax refund anticipation loans, refund anticipation checks, and similar refund-related bank products; prohibiting certain practices related to income tax refund anticipation loans, refund anticipation checks, and other similar refund-related bank products; adding a new chapter to Title 7 of the Seattle Municipal Code; and amending Chapter 3.02 of the Seattle Municipal Code.

Publication ordered by JUDITH PIPPIN,
City Clerk.

Date of publication in the Seattle Daily
Journal of Commerce, October 5, 2004.

195(177523)

STATE OF WASHINGTON – KING COUNTY

--SS.

177528
CITY OF SEATTLE, CLERKS OFFICE

No. ORDINANCE IN FULL

Affidavit of Publication

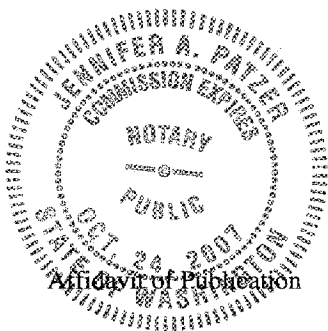
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The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:121594 ORD IN FULL

was published on

10/5/2004



Mel D.

Subscribed and sworn to before me on

10/5/2004

Jennifer A. Patzer

Notary public for the State of Washington,
residing in Seattle

