



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF FINANCIAL AND INSURANCE REGULATION  
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH  
STANLEY "SKIP" PRUSS, DIRECTOR

KEN ROSS  
COMMISSIONER

### BILL ANALYSIS

**BILL NUMBER:** House Bill 4166 (H-1)  
**TOPIC:** Refund Anticipation Loans  
**SPONSOR:** Representative Rashida Tlaib  
**CO-SPONSORS:** Representatives: Tim Melton, Jon Switalski, Bob Constan, Fred Durhal, Douglas Geiss, Joan Bauer, Timothy Bledsoe, Lisa Brown, Terry Brown, Ed Clemente, Lee Gonzales, Vincent Gregory, Jennifer Haase, Harold Haugh, Mike Huckleberry, Bert Johnson, Rick Jones, Robert Jones, Deb Kennedy, Michael Lahti, LaMar Lemmons, Ellen Cogan Lipton, Lesia Liss, Matt Lori, Jeff Mayers, Gary McDowell, David Nathan, Judy Nerat, Gino Polidori, Sarah Roberts, Kate Segal, Dian Slavens, Alma Wheeler Smith, Dudley Spade, Woodrow Stanley, Mary Valentine, Rebekah Warren

**BILL NUMBER:** House Bill 4607 (H-1)  
**TOPIC:** Refund Anticipation Loans  
**SPONSOR:** Representative Bert Johnson  
**CO-SPONSORS:** Representatives: Vicki Barnett, Joan Bauer, Terry Brown, Bob Constan, Fred Durhal, Douglas Geiss, Lee Gonzales, Jennifer Haase, Harold Haugh, Robert Jones, LaMar Lemmons, Lesia Liss, Jeff Mayes, Gary McDowell, Tim Melton, David Nathan, Sarah Roberts, Dan Scripps, Kate Segal, Dudley Spade, Jon Switalski, Rashida Tlaib, Mary Valentine

**COMMITTEE:** Banking and Financial Institutions

**Analysis Done:** June 22, 2009

### POSITION

The Office of Financial and Insurance Regulation supports this legislation.

### PROBLEM/BACKGROUND

Refund anticipation loans (RAL) are high cost, short-term loans secured by a taxpayer's expected refund at the time they have their tax documents prepared for submission to the Internal Revenue Service (IRS). Consumers may pay three fees: one for tax preparation, one for the

preparer to process the RAL and one to the lender for the loan. The amount of the loan is based on the amount of refund the taxpayer will receive. In this manner, a taxpayer can access the money owed by the IRS without having to wait for the return to be processed and a check issued.

These short-term loans are accompanied by fees and annualized interest rates well beyond rates charged for other types of loans. In essence, consumers borrow their own money at extremely high interest rates. RALs have become a billion dollar business over the last few years. According to the National Consumer Law Center Inc., consumers made approximately 12.38 million RALs during the 2004 tax-filing season. Consumers paid an estimated \$1.24 billion in fees to get quick cash for their refunds.

To the extent RALs are funded through a national bank, Michigan has no regulatory authority over the interest rate that national bank assesses. The National Bank Act authorizes a national bank to charge interest at the rate allowed by the state in which it is located.

### **DESCRIPTION OF BILLS**

HB 4166 (H-1) creates the Refund Anticipation Loan Disclosure Act and Section 5 of the bill requires the facilitator to make the following written disclosures to a taxpayer in connection with a RAL:

- A listing of 3 or more representative RAL amounts with the applicable fees and the annual percentage rate charged for each amount listed separately.
- A statement that RALs are an extension of credit and not the taxpayer's actual personal income tax refund.
- A statement that electronic filing of the taxpayer's tax return is available without applying for a RAL.
- A statement providing the average amount of time a taxpayer can expect to receive a refund under different filing and refund options when a RAL is not obtained.
- A statement that neither the IRS nor the Michigan Department of Treasury makes any guarantees with regard to refunds.
- A statement that the taxpayer is responsible for the repayment of the loan and applicable fees if the refund is inadequate.
- The estimated time it will take to release the proceeds of the loan to the taxpayer if the loan is approved.
- The amount of the fees charged by the facilitator or lender if the loan is not approved.

Section 7 of the bill further requires the facilitator, before entering into the RAL agreement, to disclose to the taxpayer the estimated total fees and annual percentage rate of the loan.

HB 4607 (H-1) creates the Refund Anticipation Loan Act and Section 5 of the bill prohibits the facilitator from doing the following in connection with a RAL:

- Require a consumer to enter into a loan agreement RAL in order to complete a tax return.
- Failing to complete the tax return promptly after processing the application.
- Engaging in any fraudulent activities with any person in connection with a RAL.

Section 7 of the bill additionally provides the following:

- Prohibits the facilitator from charging the borrower a fee for rescinding a RAL and requires the return of any fee charged for making a RAL.
- Does not require the facilitator or lender to refund to a customer who rescinds a RAL a fee charged to the customer for establishing and administering a bank account to electronically receive and distribute the customer's tax refund.
- Allows a borrower who obtains a RAL may rescind the RAL, on or before the close of business on the business day following the day the loan is made.

Section 9 of both bills state that a person, including, but not limited to, a facilitator or a member, officer, director, agent, or employee of a facilitator, that violates or participates in a violation of the applicable act is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 93 days, or both.

The 93-day maximum term of imprisonment would trigger mandatory fingerprinting and record retention requirements on the part of local and state law enforcement services.

Section 11 of both bills does not allow preemption of the applicable act relating to RALs by political subdivisions of this state by rule, regulation, code, or ordinance. If adopted, these acts preempt any rule, regulation, code or ordinance of any political subdivision of this state relating to refund anticipation loans.

### **SUMMARY OF ARGUMENTS**

#### **Pro**

Taxpayers will be able to make informed decisions as they put their trust in the commercial tax preparers who are also facilitators of RALs. This bill will provide consumers with clear price information about the fees and interest rates being charged in connection with a RAL.

#### **Con**

None

### **FISCAL/ECONOMIC IMPACT**

OFIR has identified the following revenue or budgetary implications in the bill as follows: None

(a) To the Office of Financial and Insurance Regulation:

Budgetary:

Revenue:

Comments:

(b) To the Department of Energy, Labor & Economic Growth:

Budgetary:

Revenue:

Comments:

(c) To the State of Michigan:

Budgetary:

Revenue:

Comments:

(d) To Local Governments within this State:

Comments:

**OTHER STATE DEPARTMENTS**

None

**ANY OTHER PERTINENT INFORMATION**

These acts do not take effect unless both HB 4166 (H-1) and HB 4607 (H-1) are enacted by the 95<sup>th</sup> Legislature.

A similar bill was introduced in the 2007-2008 legislative session, HB 5903. This bill passed the house last session.

**ADMINISTRATIVE RULES IMPACT**

None



Ken Ross  
Commissioner

6-23-09

Date