



Legislation Text

File #: Int 0383-2003, **Version:** A

Proposed Int. No. 383-A

By Council Members Reyna, DeBlasio, Reed, Gioia, Brewer, Davis, Dilan, Fidler, Foster, Jackson, Koppell, Liu, Martinez, Monserrate, Nelson, Quinn, Stewart, Yassky, Weprin, the Public Advocate (Ms. Gotbaum) and Comrie

A Local Law to amend the administrative code of the city of New York, in relation to creating disclosure requirements for tax preparers who offer refund anticipation loans.

Be it enacted by the Council as follows:

Section 1. Section 20-739 of the administrative code of the city of New York is hereby amended to read as follows:

§20-739 Definitions. 1. For the purposes of this subchapter, the term "tax preparer" or "preparer" means a person, partnership, corporation or other business entity, that for valuable consideration advises or assists or offers to advise or assist in the preparation of income tax returns for another.

2. For the purposes of this subchapter, the term "refund anticipation loan" means any loan a taxpayer may receive against his or her anticipated income tax refund.

§2. Section 20-741.1 of the administrative code of the city of New York, as amended by local law 17 of 1990, is hereby amended to read as follows:

§20-741.1 Refund anticipation loans. 1. Any tax preparer who advertises the availability of a refund anticipation loan program by which a taxpayer may receive a loan against the taxpayer's anticipated refund may not directly or indirectly represent such a loan as a refund. Any advertisement which mentions such a refund anticipation loan program must state conspicuously that it is a loan and that a fee or interest will be charged by the lending institution. The advertisement must also disclose the name of the lending institution.

2. Before any taxpayer enters into a refund anticipation loan, the tax preparer facilitating such loan shall

provide the following disclosure to the taxpayer in writing, in English and Spanish, in at least 14-point type. In the event that the taxpayer does not understand English or Spanish, the tax preparer shall also provide a point-by-point oral explanation of the following required disclosure in a language understood by the tax payer:

* YOU ARE NOT REQUIRED TO ENTER INTO THIS REFUND ANTICIPATION LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS INFORMATION.

* IF YOU DO SIGN A CONTRACT FOR A REFUND ANTICIPATION LOAN, YOU WILL BE TAKING OUT A LOAN. YOU WILL BE RESPONSIBLE FOR REPAYMENT OF THE ENTIRE LOAN AMOUNT AND ALL RELATED COSTS AND FEES, REGARDLESS OF HOW MUCH MONEY YOU ACTUALLY RECEIVE IN YOUR TAX REFUND.

* IF YOU DO NOT TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU ARE ELIGIBLE TO RECEIVE A GROSS TAX REFUND OF APPROXIMATELY \$ [insert amount].

* IF YOU DO TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU WILL BE RESPONSIBLE TO PAY \$ [insert amount] IN FEES FOR THE LOAN. AFTER THESE FEES ARE PAID, YOU WILL RECEIVE APPROXIMATELY \$ [insert amount] AS YOUR LOAN.

* THE ESTIMATED ANNUAL PERCENTAGE RATE OF YOUR REFUND ANTICIPATION LOAN IS [insert amount]%. THIS IS BASED ON THE ACTUAL AMOUNT OF TIME YOU WILL BE LENT MONEY THROUGH THIS REFUND ANTICIPATION LOAN.

* IF YOU DO TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU CAN EXPECT TO RECEIVE YOUR LOAN WITHIN APPROXIMATELY TWO BUSINESS DAYS OF [insert date].

* IF YOU DO NOT TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU CAN STILL RECEIVE YOUR TAX REFUND QUICKLY. IF YOU FILE YOUR TAX RETURN ELECTRONICALLY AND RECEIVE YOUR TAX REFUND THROUGH THE MAIL, YOU CAN EXPECT TO RECEIVE YOUR REFUND WITHIN APPROXIMATELY TWO BUSINESS DAYS OF [insert date]. IF YOU FILE YOUR TAX RETURN ELECTRONICALLY AND HAVE YOUR TAX REFUND DIRECTLY DEPOSITED INTO A

BANK ACCOUNT, YOU CAN EXPECT TO RECEIVE YOUR REFUND WITHIN APPROXIMATELY TWO BUSINESS DAYS OF [insert date].

It shall be the obligation of the tax preparer to complete the required disclosure accurately with all relevant information for each taxpayer, to provide the required point-by-point oral explanation when necessary, and to ensure that the completed disclosure form is signed by the taxpayer before he or she enters into a refund anticipation loan.

§3. Section 20-743 of the administrative code of the city of New York is hereby amended to read as follows:

§ 20-743 Penalties. Any person, partnership, corporation or other business entity who violates any provision of this subchapter or any of the regulations promulgated hereunder shall be liable for a civil penalty of not less than twenty-five two hundred fifty dollars nor more than one five hundred dollars for each the first violation and for each succeeding violation a civil penalty of not less than five hundred dollars nor more than seven hundred fifty dollars.

§4. Subchapter 8 of chapter 5 of title 20 of the administrative code of the city of New York is amended, by the addition of section 20-743.1, to read as follows:

§ 20-743.1. Civil Cause of Action. Any person claiming to be injured by the failure of a tax preparer to act in accordance with section 20-741.1 of this subchapter shall have a cause of action against such tax preparer in any court of competent jurisdiction for any or all of the following relief:

- a. compensatory and punitive damages;
- b. injunctive and declaratory relief;
- c. attorneys' fees and costs; and
- d. such other relief as a court may deem appropriate.

§5. This local law shall take effect 60 days after it is enacted.

LS 1114
4/1/03