

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 993

Short Title: Amend Refund Anticipation Loan Act.

(Public)

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Sponsors: Senators Staton, Carpenter, Conder, Plyler; and Forrester.

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Referred to: Banks and Thrift Institutions.

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May 27, 1992

A BILL TO BE ENTITLED

AN ACT TO MAKE AMENDMENTS TO THE REFUND ANTICIPATION LOAN  
ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-247 is amended by adding a new subsection to read:

"(d) A person registered as a facilitator under this Article is, for the purpose of facilitating refund anticipation loans, exempt from Article 20 of Chapter 66."

Sec. 2. G.S. 53-248 reads as rewritten:

**"§ 53-248. Registration ~~procedure.~~ procedure; informal hearing.**

(a) Initial Registration. An application to become registered as a facilitator shall be in writing, under oath, and in a form prescribed by the Commissioner. The application shall contain all information prescribed by the Commissioner. Each application for registration shall be accompanied by a nonrefundable application fee, payable to the Commissioner, of two hundred fifty dollars (\$250.00) together with a fee of one hundred dollars (\$100.00) for each office where the registrant intends to facilitate refund anticipation loans.

Upon the filing of an application for registration, if the Commissioner finds that the responsibility and general fitness of the applicant are such as to command the confidence of the community and to warrant belief that the business of facilitating refund anticipation loans will be operated within the purposes of this Article, the Commissioner shall register the applicant as a facilitator of refund anticipation loans and shall issue and transmit to the applicant a certificate attesting to the registration. If the Commissioner does not so find, ~~he~~ the Commissioner shall not register the applicant

1 and shall notify the applicant of the reasons for the ~~denial~~ denial by certified mail,  
2 return receipt requested.

3 Upon receipt of a certificate of registration, the applicant is registered under this  
4 Article and may engage in the business of facilitating refund anticipation loans at the  
5 offices identified on the application for registration.

6 (b) Renewal. Each registration as a facilitator of refund anticipation loans shall  
7 expire on December 31 following the date it was issued, unless it is renewed for the  
8 succeeding year. Before the registration expires, the registrant may renew the  
9 registration by filing with the Commissioner an application for renewal in the form and  
10 containing all information prescribed by the Commissioner. Each application for  
11 renewal of registration shall be filed on or before November 30 in the year issued and  
12 shall be accompanied by a nonrefundable fee of one hundred dollars (\$100.00) for each  
13 office where the registrant intends to facilitate refund anticipation loans during the  
14 succeeding year.

15 Upon the filing of an application for renewal of registration under this Article, the  
16 Commissioner shall renew the registration unless the Commissioner determines that the  
17 fitness of the registrant or the operations of the registrant would not support an initial  
18 registration of the registrant under subsection (a)-(a) of this section. ~~If the Commissioner~~  
19 ~~makes such a determination, he shall so~~ this determination is made, the Commissioner shall  
20 notify the registrant, by certified mail, return receipt requested, stating the reasons for  
21 the determination.

22 (c) Display of Certificate. Each registrant shall prominently display a certificate  
23 issued under this Article in each place of business in the State where the registrant  
24 facilitates the making of refund anticipation loans.

25 (d) Within five days of receipt of the Commissioner's notice, as required by  
26 subsections (a) and (b) of this section, the applicant may make written demand of the  
27 Commissioner for a hearing. The hearing before the Commissioner shall be an informal  
28 hearing and shall be held with reasonable promptness."

29 Sec. 3. G.S. 53-252 reads as rewritten:

30 "**§ 53-252. Appeal of Commissioner's decision.**

31 Notwithstanding any other provision of law, ~~an aggrieved party may, within 30 days~~  
32 ~~after a final decision of the Commissioner and with written notice to the Commissioner,~~  
33 ~~appeal the decision directly to the North Carolina Court of Appeals for judicial review~~  
34 ~~on the record. In the event of an appeal, the Commissioner shall certify the record to~~  
35 ~~the Clerk of the Court of Appeals within 30 days after receipt of notice of appeal. The~~  
36 ~~record shall include all memoranda and briefs, and any other documents, data,~~  
37 ~~information, or evidence submitted by any party to the proceeding except for material~~  
38 ~~such as trade secrets normally not available through commercial publication for which a~~  
39 ~~party has made a claim of confidentiality and requested exclusion from the record. All~~  
40 ~~factual information contained in any report submitted to or obtained by the~~  
41 ~~Commissioner's staff shall also be made a part of the record unless deemed confidential~~  
42 ~~by the Commissioner. the Commission may review any rule, order, or act of the~~  
43 Commissioner made under this Article. An aggrieved person may appeal to the  
44 Commission as provided in Article 3A of Chapter 150B."

1           Sec. 4. G.S. 53-253 reads as rewritten:

2   "**§ 53-253. Rules; enforcement.**

3       ~~Notwithstanding the provisions of G.S. 53-95, the Commissioner may promulgate~~  
4 ~~reasonable rules as necessary to effectuate the purpose of this Article, The~~  
5 ~~Commissioner may adopt rules to implement this Article, to provide for the protection~~  
6 of the borrowing public, and to assist registrants in interpreting this Article. In order to  
7 enforce this Article, the Commissioner may make investigations, subpoena witnesses,  
8 require audits and reports, and conduct hearings regarding possible violations of its  
9 provisions."

10          Sec. 5. This act becomes effective July 1, 1992.