

## **BILL ANALYSIS**

H.B. 2561  
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Investments & Financial Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

With the increased regulation of the refund anticipation loan industry, tax preparers and banks offer a related product called refund anticipation checks. Interested parties report that more than 35 percent of recipients of Earned Income Tax Credit (EITC) obtained either a refund anticipation loan or a refund anticipation check and that a significant portion of such recipients paid part of their publicly funded benefits to a bank in order to obtain a tax-related financial product. In contrast, such parties report that less than 10 percent of taxpayers who do not receive the EITC obtain a refund anticipation loan or refund anticipation check. Interested parties assert that even with a slow decline of refund anticipation loans, low-income taxpayers may still remain vulnerable to forms of profiteering, as refund anticipation checks can be subject to significant add-on fees and may represent a high-cost loan of the tax preparation fee and ultimately a drain on public programs.

Current law provides a definition for refund anticipation loans and prescribes accompanying disclosures on such loans; however, it does not provide a definition or disclosures for refund anticipation checks. H.B. 2561 seeks to increase consumer knowledge on such matters.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 2561 amends the Finance Code to require a facilitator, redefined to mean a person who processes, receives, or accepts for delivery an application for a refund anticipation loan or a refund anticipation check, delivers a check in payment of refund anticipation loan proceeds, or in any other manner acts to allow the making of a refund anticipation loan or the issuance of a refund anticipation check, to discuss with and clearly disclose to a consumer the following: the refund anticipation check fee schedule; the estimated total fees for the check; and a written statement disclosing that the taxpayer may file an income tax return electronically without applying for a refund anticipation check, disclosing the average time, as published by the IRS, within which a taxpayer can expect to receive a refund for an income tax return filed electronically and within which the refund is deposited directly into the taxpayer's bank account or mailed to the taxpayer, and disclosing that the IRS does not guarantee payment of the full amount of the anticipated refund. The bill requires the refund anticipation check fee schedule to be a listing or table of fees charged for the issuance of a refund anticipation check and to list separately each fee imposed related to the issuance of the check and the total amount of fees imposed related to the issuance of the check. The bill requires a facilitator who advertises or markets refund anticipation checks in Spanish, or who negotiates a refund anticipation check with a consumer in Spanish, to offer the option of receiving a Spanish-language printed disclosure and contract.

H.B. 2561 exempts any person who acts solely as an intermediary and does not interact directly

with a taxpayer in the issuance of a refund anticipation check from statutory provisions restricting facilitator activities to a person who meets specified conditions. The bill expands the information a person must provide to the consumer credit commissioner in order to register as a facilitator to include a list of each location in Texas at which e-file providers authorized by the IRS to file tax returns on behalf of borrowers for whom the facilitator acts to facilitate the issuance of a refund anticipation check.

H.B. 2561 establishes that provisions regulating tax refund anticipation checks preempt a local ordinance or rule regulating refund anticipation checks.

H.B. 2561 defines "refund anticipation check" to mean a check, stored value card, or other payment mechanism that represents the proceeds of a consumer's tax refund, that is issued by a depository institution or other person who receives a direct deposit of the consumer's tax refund or tax credits, and for which the consumer pays a fee or other consideration.

**EFFECTIVE DATE**

January 1, 2014.