



2009 ASSEMBLY BILL 290

June 2, 2009 – Introduced by Representatives ZEPNICK and A. WILLIAMS. Referred to Committee on Financial Institutions.

1 **AN ACT to create** 20.566 (1) (hc) and 73.03 (64) of the statutes; **relating to:**
2 licensing tax preparers, prohibiting making or arranging certain refund
3 anticipation loans, providing an exemption from emergency rule procedures,
4 granting rule-making authority, making an appropriation, and providing
5 penalties.

Analysis by the Legislative Reference Bureau

Under current law, a tax preparer is subject to certain privacy requirements regarding information obtained in preparing a client's tax return. Current law defines "tax preparer" as a person who, for compensation, prepares an income tax return of another person, but does not include: 1) a licensed certified public accountant; 2) a licensed attorney; or 3) an employee of a corporate trustee, bank, or trust company, who is authorized to provide fiduciary services. Current law also requires a creditor to make specified disclosures before making a "refund anticipation loan" to a customer, which is defined as an agreement under which the creditor arranges to be repaid for a loan directly from the proceeds of the customer's income tax refund.

This bill requires the Department of Revenue (DOR) to promulgate rules prohibiting a person from acting as a tax preparer without a license issued by DOR. The bill's definition of "tax preparer" is the same as under current law, except it includes a licensed certified public accountant or attorney. The rules must specify license qualifications, establish a license fee, and require periodic renewal of

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licenses. In addition, the rules may impose other requirements and procedures that DOR determines are necessary. The rules must also prohibit a person issued a license from making a refund anticipation loan, as defined under current law, or acting in any manner to facilitate the making of such a loan by an in-state or out-of-state creditor.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.566 (1) (hc) of the statutes is created to read:

2 20.566 (1) (hc) *Licensing tax preparers.* All moneys received from the license
3 fees imposed under s. 73.03 (64) for administering the program to license tax
4 preparers as provided under s. 73.03 (64).

5 **SECTION 2.** 73.03 (64) of the statutes is created to read:

6 73.03 (64) (a) To promulgate rules prohibiting a person from acting as a tax
7 preparer, as defined in s. 100.57 (1) (b), but including individuals specified in s.
8 100.57 (1) (b) 1. and 2., unless the department has issued a license to the person. The
9 rules shall specify the qualifications required for licensure, establish a license fee,
10 require periodic renewal of licenses, and impose any other requirements and
11 procedures that the department determines are necessary for licensure. The rules
12 shall also prohibit a person issued a license from making a refund anticipation loan,
13 as defined in s. 421.301 (37m), or acting in any manner to facilitate the making of
14 such a loan by an in-state or out-of-state creditor.

15 (b) A tax preparer, as defined in s. 100.57 (1) (b), but including individuals
16 specified in s. 100.57 (1) (b) 1. and 2., who is not licensed as provided in par. (a) and
17 who makes, attempts to make, or acts in any manner to facilitate the making of a
18 refund anticipation loan, as defined in s. 421.301 (37m), is subject to a penalty of not

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1 more than \$500 for each such incident or imprisonment for not more than 6 months
2 for the first such incident and not more than one year for any subsequent incidents
3 or both the penalty and the imprisonment provided under this paragraph.

4 (c) A tax preparer, as defined in s. 100.57 (1) (b), but including individuals
5 specified in s. 100.57 (1) (b) 1. and 2., who is licensed as provided in par. (a) and who
6 makes, attempts to make, or acts in any manner to facilitate the making of a refund
7 anticipation loan, as defined in s. 421.301 (37m), is subject to a penalty of not more
8 than \$1,000 for the first such incident and \$1,500 for each subsequent incident or
9 imprisonment for not more than one year for the first such incident and not more
10 than 18 months for any subsequent incidents or both the penalty and the
11 imprisonment provided under this paragraph.

SECTION 3. Nonstatutory provisions.

12 (1) Using the procedure under section 227.24 of the statutes, the department
13 of revenue may promulgate rules required under section 73.03 (64) of the statutes,
14 as created by this act, for the period before the effective date of the permanent rules
15 promulgated under section 73.03 (64) of the statutes, as created by this act, but not
16 to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes.
17 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department
18 of revenue is not required to provide evidence that promulgating a rule under this
19 subsection as an emergency rule is necessary for the preservation of public peace,
20 health, safety, or welfare and is not required to provide a finding of an emergency for
21 a rule promulgated under this subsection.
22

SECTION 4. Effective date.
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