

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4463

To amend the Consumer Financial Protection Act of 2010 to regulate tax return preparers and refund anticipation payment arrangements, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2014

Ms. BONAMICI introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Consumer Financial Protection Act of 2010 to regulate tax return preparers and refund anticipation payment arrangements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tax Refund Protection  
5 Act of 2014”.

1 **SEC. 2. REGULATION OF REFUND ANTICIPATION PAYMENT**  
2 **INSTRUMENTS AND TAX RETURN PRE-**  
3 **PARERS.**

4 (a) IN GENERAL.—Subtitle B of the Consumer Fi-  
5 nancial Protection Act of 2010 (12 U.S.C. 5481 et seq.)  
6 is amended by adding at the end the following new section:

7 **“SEC. 1029B. REGULATION OF REFUND ANTICIPATION PAY-**  
8 **MENT ARRANGEMENTS AND TAX RETURN**  
9 **PREPARERS.**

10 “(a) IN GENERAL.—The Bureau shall—

11 “(1) regulate refund anticipation payment ar-  
12 rangements;

13 “(2) establish a program to license or certify  
14 tax return preparers subject to this section;

15 “(3) regulate such tax return preparers; and

16 “(4) before licensing or certifying a person as  
17 a tax return preparer subject to this section, require  
18 that the person demonstrate—

19 “(A) good character;

20 “(B) good reputation;

21 “(C) necessary qualifications to enable the  
22 person to provide to persons valuable service as  
23 a tax return preparer; and

24 “(D) competency to perform the functions  
25 of a tax return preparer.

1       “(b) AUTHORITY TO IMPOSE A FEE.—The Bureau  
2 shall require tax return preparers subject to this section  
3 to pay a reasonable fee for licensing or certification under  
4 this section.

5       “(c) DISCLOSURE REQUIREMENTS.—The Bureau  
6 shall, by rule, require tax return preparers subject to this  
7 section to provide a disclosure statement to a consumer  
8 that shall contain statements—

9               “(1) identifying the amount of fees such tax re-  
10 turn preparer charges for preparing a Federal in-  
11 come tax return, filing a Federal income tax return,  
12 or executing a refund anticipation payment arrange-  
13 ment;

14               “(2) identifying the average amount of time in  
15 which an individual who files a Federal income tax  
16 return electronically can expect to receive a refund  
17 by mail, according to information provided by the  
18 Internal Revenue Service;

19               “(3) describing, in the case of a refund antici-  
20 pation payment arrangement involving a depository  
21 account not controlled by the consumer, the dif-  
22 ference in days between the average amount of time  
23 by which a consumer receives the tax refund (in  
24 whole or in part) from a refund anticipation pay-  
25 ment arrangement and the average amount of time

1 by which a consumer who files a Federal income tax  
2 return electronically receives the tax refund depos-  
3 ited directly to that consumer's deposit account by  
4 the taxing authority;

5 “(4) that a refund anticipation payment ar-  
6 rangement is not necessary to receive a tax refund;  
7 and

8 “(5) that, if a consumer does not receive a tax  
9 refund or the amount of the tax refund is less than  
10 the amount anticipated under the refund anticipa-  
11 tion payment arrangement, the consumer may be re-  
12 sponsible for paying any fees and interest associated  
13 with a refund anticipation payment arrangement.

14 “(d) REQUIREMENTS UNDER TILA.—The Bureau  
15 shall issue regulations that, to the extent practicable, re-  
16 quire tax return preparers that enter into a refund antici-  
17 pation payment arrangement to comply with section 128  
18 of the Truth in Lending Act (15 U.S.C. 1638) to the same  
19 extent as a creditor making a consumer credit transaction  
20 other than under an open end credit plan.

21 “(e) DISCIPLINARY PROCEDURES.—After notice and  
22 opportunity for a hearing, the Bureau may take any en-  
23 forcement action against a tax return preparer subject to  
24 this section who—

25 “(1) is incompetent;

1           “(2) is disreputable;

2           “(3) violates regulations prescribed under this  
3 section; or

4           “(4) with intent to defraud, willfully and know-  
5 ingly misleads or threatens a consumer.

6           “(f) DEFINITIONS.—For purposes of this section, the  
7 following definitions shall apply:

8           “(1) TAX RETURN PREPARER.—The term ‘tax  
9 return preparer subject to this section’ means a tax  
10 return preparer (as defined in section 7701(a)(36)  
11 of the Internal Revenue Code of 1986) who is not  
12 subject to regulation under section 330 of title 31,  
13 United States Code.

14           “(2) REFUND ANTICIPATION PAYMENT AR-  
15 RANGEMENT.—The term ‘refund anticipation pay-  
16 ment arrangement’ means an arrangement under  
17 which, in exchange for Federal income tax prepara-  
18 tion services, a consumer agrees to pay a fee or in-  
19 terest upon receipt of the consumer’s tax refund to  
20 a tax return preparer, lender, or other affiliated  
21 lender by—

22           “(A) requesting the Federal Government  
23 to deposit such tax refund, in whole or in part,  
24 directly into a depository account designated by

1           either the consumer or the tax return preparer,  
2           lender, or other affiliated lender; or

3                   “(B) directly paying the fee or interest to  
4           the tax return preparer, lender, or other affili-  
5           ated lender.”.

6           (b) CLERICAL AMENDMENT.—The table of contents  
7 of the Dodd-Frank Wall Street Reform and Consumer  
8 Protection Act (12 U.S.C. 5301 et seq.) is amended by  
9 inserting after the item related to section 1029A the fol-  
10 lowing new item:

          “Sec. 1029B. Regulation of refund anticipation payment arrangements and tax  
          return preparers.”.

11           (c) EXCLUSION FOR CERTAIN TAX PREPARERS.—

12                   (1) IN GENERAL.—Section 1027(d)(1) of such  
13 Act is amended by striking subparagraph (B).

14                   (2) CONFORMING AMENDMENTS.—Section  
15 1027(d) of such Act is further amended—

16                           (A) in paragraph (1)—

17                                   (i) in the heading, by striking “AND  
18 TAX PREPARERS”;

19                                   (ii) by striking subparagraph (B);

20                                   (iii) by striking “authority over” and  
21 all that follows through “any person” and  
22 inserting “authority over any person”;

23                                   (iv) by redesignating clauses (i) and  
24 (ii) as subparagraphs (A) and (B), respec-

1 tively, and by moving such subparagraphs  
2 2 ems to the left;

3 (v) by redesignating subclauses (I)  
4 and (II) as clauses (i) and (ii), respec-  
5 tively, and by moving such clauses 2 ems  
6 to the left;

7 (vi) in subparagraph (A) (as redesign-  
8 ated), by inserting “(except as related to  
9 tax return preparers pursuant to section  
10 1029B)” after “tax”; and

11 (vii) in clause (ii) (as redesignated),  
12 by striking “; or” and inserting a period;  
13 and

14 (B) in paragraph (2)—

15 (i) in subparagraph (A)—

16 (I) by striking “paragraph (1)(A)  
17 or (1)(B)” and inserting “such para-  
18 graph”; and

19 (II) by striking “paragraph  
20 (1)(A)” each place it appears and in-  
21 serting “paragraph (1)”;

22 (ii) in subparagraph (C)—

23 (I) by striking “For purposes of  
24 subparagraphs (A) and (B), a person  
25 described in paragraph (1)(A)” and

1 inserting “A person described in para-  
2 graph (1)”;

3 (II) by striking “clause (i) or (ii)  
4 of paragraph (1)(A)” and inserting  
5 “subparagraph (A) or (B) of para-  
6 graph (1)”;

7 (iii) in subparagraph (D), by striking  
8 “described in paragraph (1)(A) or (1)(B)”.

9 **SEC. 3. SPLIT REFUNDS MAY INCLUDE TAX RETURN PRE-**  
10 **PARER.**

11 (a) **IN GENERAL.**—Section 6402 of the Internal Rev-  
12 enue Code of 1986 is amended by adding at the end the  
13 following:

14 “(m) **SPLIT REFUNDS.**—An income tax refund re-  
15 quested on a return of Federal income tax prepared by  
16 an income tax preparer may be split between the preparer  
17 and the taxpayer in accordance with the split requested  
18 by the taxpayer on the return. A split of an individual  
19 income tax return under this subsection shall not be treat-  
20 ed as disreputable conduct merely because the taxpayer  
21 requested such split.”.

22 (b) **EFFECTIVE DATE.**—The amendment made by  
23 subsection (a) shall apply with respect to returns for tax-



1 able years ending after the date of the enactment of this  
2 Act.

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