

Testimony for HMS 2/12/2009 1:15:00 PM SB783

Conference room: 016

Testifier position: oppose

Testifier will be present: No

LATE

Submitted by: Brian Donohue

Organization: H&R Block

Address: 1401 Eye Street NW, Suite 240 Washington, DC 20005

Phone: 202-962-0075

E-mail: brian.donohue@hrblock.com

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Comments:

H&R Block would like to submit testimony on Senate bill 783.

H&R Block is proud to have has 41 offices in Hawaii and employ over 565 tax professionals. We favor high standards of competence and integrity for tax return preparers, strong regulation of refund anticipation loans, and would welcome helping eligible clients obtain a state EITC if one is enacted.

Our primary activity is tax return preparation, although we also offer savings and credit products as well as an Emerald prepaid debit card that can act as a bank account and save clients on average nearly \$600 a year by avoiding check-cashing fees for tax refunds or payroll checks. We recognize that tax time is a teachable moment when clients may be able to save and build assets. Responsible use of credit, like savings, can be a necessary element in a family's financial planning.

About 80% of our clients do not choose a refund loan, but for those who do, it can be a lifesaver for family financial emergencies.

SB783 seeks to cap interest rates for Refund Anticipation Loans (RAL) in connection with the preparation of tax returns. Under existing rules of the Internal Revenue Service, a tax preparer is not permitted to be the lender on a RAL relating to a tax return prepared by the tax preparer. Accordingly, refund loans are made by financial institutions, like J.P. Morgan Chase and HSBC (which makes loans to Block clients).

For over 140 years, national banks have been subject to federal jurisdiction; courts have repeatedly ruled that inconsistent state regulation is preempted, especially as to interest rates. If enacted, SB783 would therefore likely be preempted by a court as required by the National Bank Act when applied to tax preparers who offer RALs on behalf of national banks. A similar Connecticut statute was recently held to be unconstitutional by a federal district court and upheld by the Second Circuit Court of Appeals. See *Pacific Capital Bank v. Connecticut*, 2006 WL 2331075.

RALs are already regulated by 10 federal laws and IRS rules. We favor, and practice, high standards and full disclosures so consumers can make informed choices. We would welcome the opportunity to discuss consumer

safeguards we've already incorporated and how fees compare to comparable loan products.

We would be happy to work with the committee on legislation and are available for technical or other assistance. Thank you for considering our views.