

SUBCHAPTER 03J - REFUND ANTICIPATION LOAN

SECTION .0100 - ADMINISTRATIVE

04 NCAC 03J .0101 DEFINITIONS; FILINGS

(a) In addition to the definitions in G.S. 53, Article 20, for the purposes of this Subchapter the following definitions apply:

- (1) "Controlling person" means any person as defined in G.S. 53-246(7) who owns or holds with the power to vote 10% or more of the equity securities of the registrant, or who has the power to direct the management and policy of the registrant.
- (2) "Creditor loan fee" means the charges, fees, or other consideration charged or imposed by the creditor for the making of a refund anticipation loan.
- (3) "Electronic filing fee" means the fee imposed by the facilitator in consideration for the electronic filing of a tax return.
- (4) "Facilitator loan fee" means the charges, fees, or other consideration charged or imposed by the facilitator for the making of a refund anticipation loan.
- (5) "Transmitter" means any person who sends electronic returns directly to the Internal Revenue Service. This term shall include persons who receive information to be reformatted and transmitted to the Internal Revenue Service, i.e., third-party transmitters.

(b) An application for registration or any report, notice, or other document that is required by law or rule to be filed with the Commissioner shall be obtained from and filed online through <https://www.nccob.gov>.

History Note: Authority G.S. 53-245; 53-246; 53-248; 53-253;
Eff. September 1, 1993;
Amended Eff. September 1, 2006;
Readopted Eff. August 1, 2018.

SECTION .0200 - APPLICATION AND RENEWAL

04 NCAC 03J .0201 APPLICATION FOR REGISTRATION AS A FACILITATOR

(a) The application for registration as a facilitator shall include the following:

- (1) a description of the applicant's organizational structure, including the name, business address, and business telephone number of the applicant, and the name of its controlling persons;
- (2) copies of the following documents, where applicable:
 - (A) the applicant's Articles of Incorporation, Articles of Organization, or partnership agreement;
 - (B) a Certificate of Existence or Certificate of Good Standing not more than 90 days old from the applicant's state of incorporation;
 - (C) a Certificate of Authority to do business in this State; and
 - (D) a copy of the applicant's Certificate of Assumed Name.
- (3) a description of the applicant's operations, including the names and addresses of the lenders that will fund refund anticipation loans to its customers, the names and addresses of transmitters, and any other intermediary parties involved in the process of facilitating refund anticipation loans;
- (4) a description of the business(es) in which the applicant is primarily engaged;
- (5) the applicant's Electronic Filer Identification Number (EFIN) and Preparer Tax Identification Number (PTIN) as provided by the Internal Revenue Service;
- (6) proof that the applicant has been accepted by the Internal Revenue Service to participate in its electronic filing program for the present tax year;
- (7) disclosure of any civil judgments entered against the applicant or its controlling persons during the past 10 years that are partially or wholly unpaid;
- (8) disclosure of any civil proceedings pending against or civil judgments entered against the applicant or its controlling persons that involve fraud or dishonesty;
- (9) disclosure of any felony convictions entered against the applicant or its controlling persons;
- (10) disclosure of any misdemeanor convictions entered against the applicant or its controlling persons that involve theft, fraud, or dishonesty;

- (11) disclosure of any enforcement proceeding brought against the applicant or its controlling persons by any agency or department of this State, the Federal government or any other state that involves the revocation or suspension of any business license;
- (12) disclosure of whether the applicant, or its controlling persons have been denied acceptance in or suspended from the Electronic Filing Program of the Internal Revenue Service;
- (13) disclosure of whether the applicant is, or has ever been, the subject of the following proceedings: bankruptcy, assignment for the benefit of creditors, receivership, conservatorship, or similar proceeding; and
- (14) the address of each office in this State where the applicant intends to facilitate refund anticipation loans.

(b) Incomplete applications shall be closed and the application withdrawn when the applicant has not submitted information requested by the Commissioner within 30 days of request. If an application is withdrawn, in order to become registered, the applicant shall submit a new application and pay all fees associated with the application.

History Note: Authority G.S. 53-245(b); 53-247(a); 53-248(a); 53-253;
Eff. September 1, 1993;
Readopted Eff. August 1, 2018.

04 NCAC 03J .0202 ISSUANCE OF A CERTIFICATE OF REGISTRATION
04 NCAC 03J .0203 EXPIRATION AND RENEWAL

History Note: Authority G.S. 53-248(a); 53-248(b); 53-253; 150B-21.2;
Eff. September 1, 1993;
Repealed Eff. August 1, 2018.

04 NCAC 03J .0204 APPLICATION FOR RENEWAL OF CERTIFICATE OF REGISTRATION

(a) The application for renewal of the Certificate of Registration shall include the following:

- (1) where applicable, any amendments to the application for registration filed pursuant to Rule .0201 of this Subchapter; and
- (2) a written verification of the accuracy of the application for Certificate of Registration filed pursuant to Rule .0201 of this Subchapter and any amendments filed pursuant to Subparagraph(a)(1) of this Rule and Rule .0305 of this Subchapter.

(b) Incomplete applications for renewal of the Certificate of Registration shall be closed and the application for renewal withdrawn when the registrant has not submitted information requested by the Commissioner within 30 days of the request. If an application is withdrawn, in order to be registered, the applicant shall submit a new application and pay all fees associated with the application.

History Note: Authority G.S. 53-248(b); 53-253;
Eff. September 1, 1993;
Readopted Eff. August 1, 2018.

04 NCAC 03J .0205 NONTRANSFERABILITY OF CERTIFICATE OF REGISTRATION

(a) A Certificate of Registration shall be neither transferable nor assignable.

(b) The Certificate of Registration shall become void if the registrant changes organizational structure, such as to or from a sole proprietorship, partnership, limited partnership, general partnership, limited liability company, or corporation. The new entity may apply for a Certificate of Registration pursuant to Rule .0201 of this Section. If the entity that results from the change in the registrant's organization would like to engage in business as a facilitator in this State, it shall apply for a Certificate of Registration pursuant to Rule .0201 of this Section.

History Note: Authority G.S. 53-253;
Eff. September 1, 1993;
Readopted Eff. August 1, 2018.

SECTION .0300 - OPERATIONS, REPORTING REQUIREMENTS, NOTIFICATIONS

04 NCAC 03J .0301 CHECK CASHING SERVICES

History Note: Authority G.S. 53-250(5); 53-253; 150B-21.2;
Eff. September 1, 1993;
Repealed Eff. August 1, 2018.

04 NCAC 03J .0302 RECORD AND BOOKKEEPING REQUIREMENTS

(a) A registrant shall maintain the following records with respect to each application for a refund anticipation loan in this State:

- (1) the name of applicant;
- (2) the social security number of applicant;
- (3) the date of application;
- (4) disposition of application, e.g., whether loan was funded, denied, etc.;
- (5) the gross amount of the refund anticipation loan;
- (6) the amount of the creditor fee;
- (7) the amount of the facilitator loan fee, if any;
- (8) the amount of the electronic filing fee;
- (9) the amount of refund anticipation loan proceeds disbursed by the registrant to the debtor;
- (10) the date on which refund anticipation loan proceeds were disbursed by the registrant to the debtor;
and
- (11) the identity of the individual originating the application for the refund anticipation loan.

These records shall be kept in an office or offices of the registrant in this State. This Rule shall not be interpreted to require a registrant to maintain one central office where all records required are located.

(b) Evidence of all disbursements delivered by the registrant to each debtor in payment of the proceeds of the refund anticipation loan shall be available upon request by the Commissioner.

(c) All records required to be kept pursuant to Paragraph (a) of this Rule shall be kept for a period of three years.

History Note: Authority G.S. 53-253;
Eff. September 1, 1993;
Readopted Eff. August 1, 2018.

04 NCAC 03J .0303 FILING AND POSTING OF FEE SCHEDULE

(a) The fee schedule of refund anticipation loan fees required by G.S. 53-249(a) shall be filed pursuant to Rule .0101(b) of this Subchapter.

(b) The fee schedule referenced in Paragraph (a) of this Rule shall include the following fees:

- (1) the creditor fee; and
- (2) the facilitator loan fee.

(c) Pursuant to G.S. 53-249(c), the registrant shall display the following fees:

- (1) the creditor fee;
- (2) the facilitator loan fee; and
- (3) the electronic filing fee.

History Note: Authority G.S. 53-249; 53-253;
Eff. September 1, 1993;
Readopted Eff. August 1, 2018.

04 NCAC 03J .0304 DISCLOSURES

(a) For the purposes of G.S. 53-249(d)(1) and (2), the registrant shall disclose and provide a copy to the debtor the following fees:

- (1) The creditor loan fee;
- (2) The facilitator loan fee; and
- (3) The electronic filing fee.

(b) For the purposes of G.S. 53-249(d)(5), the term "appropriate taxing authority" shall mean the Internal Revenue Service.

History Note: Authority G.S. 53-249(d); 53-253;
Eff. September 1, 1993;
Readopted Eff. August 1, 2018.

