

[First Reprint]

ASSEMBLY, No. 3450

STATE OF NEW JERSEY
219th LEGISLATURE

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Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

SYNOPSIS

Creates certain requirements for earned income access services and related provider contracts.

CURRENT VERSION OF TEXT

As reported by the Assembly Financial Institutions and Insurance Committee on October 19, 2020, with amendments.



1 AN ACT concerning earned income access services and
2 supplementing Title 17 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. As used in this act:

8 “Consumer” means a natural person.

9 ¹“Department” means the Department of Banking and Insurance¹

10 “Earned but unpaid income” means earned income that has not yet
11 been paid to the consumer by an earned income obligor.

12 “Earned income” means moneys that a consumer or obligor has
13 represented, and the earned income access service provider has
14 reasonably determined ¹based on that representation¹, have accrued to
15 the benefit of that consumer for services rendered to an earned income
16 obligor.

17 “Earned income access service provider” or “provider” means any
18 person that is engaged in the business of delivering earned but unpaid
19 income to a consumer in New Jersey.

20 “Earned income access services” means the delivery of funds to a
21 consumer that represent earned but unpaid income.

22 “Obligor” means an employer or another person who is
23 contractually obligated to pay the consumer any sum of money on an
24 hourly, project-based, piecework, or other basis for labor or services
25 provided by the consumer. “Obligor” shall not include a customer of
26 an obligor or other third party whose obligation to make any payment
27 to a consumer is based solely on the consumer’s agency relationship
28 with the obligor.

29
30 2. a. An earned income access service provider shall offer earned
31 income access services through a contractual arrangement with an
32 obligor or a service provider to an obligor, ¹or a consumer¹ in which
33 the provider:

34 (1) verifies a consumer’s ¹net¹ earned income; and

35 (2) delivers earned income to the consumer prior to the date on
36 which the obligor is scheduled to pay the consumer, and the amount of
37 the earned income delivered by the provider to the consumer is
38 reduced or withheld from the consumer’s next payment.

39 b. An obligor shall not share information with an earned income
40 access service provider pertaining to the obligor’s accrued and
41 expected obligations to the consumer unless:

42 (1) the obligor or service provider to the obligor has entered into a
43 contractual arrangement for earned income access services with the
44 earned income access service provider; and

45 (2) the consumer consents to sharing that information.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AFI committee amendments adopted October 19, 2020.

1 c. ¹**【**An earned income access service provider shall not enter into
2 a contractual arrangement with a consumer that permits delivery of
3 earned income directly to the consumer that is to be repaid directly by
4 the consumer to the provider.

5 d. **1** (1)¹ The imposition of a fee on a consumer who opts to use
6 the services of an earned income access service provider, and the
7 reduction or withholding from a consumer's payment as set forth in
8 subsection a. of this section, shall not violate section 4 of P.L.1965,
9 c.173 (C.34:11-4.4), provided that the consumer is informed in writing
10 of the right to receive the full amount of the consumer's wages,
11 without discount, if the consumer waits until the regular payment due
12 date.

13 ¹(2) A provider that contracts directly with a consumer shall not
14 charge a mandatory fee to the consumer.¹
15

16 3. a. Any earned income access services that fail to comply with
17 the provisions of section 2 of this act shall be subject to:

18 (1) the provisions of the civil usury law, R.S.31:1-1, and the
19 criminal usury law, N.J.S. 2C:21-19;

20 (2) any provisions of Titles 17 or 56 of the Revised Statutes that
21 would otherwise apply to a loan or credit transaction; and

22 (3) the federal "Truth in Lending Act," 15 U.S.C. s.1601 et seq.
23 and the regulations implementing that act, 12 C.F.R. s.226 et seq., to
24 provide any disclosures required for closed-end loans.

25 b. Earned income access services that do not comply with section
26 2 of this act shall be considered a loan, even if those services are
27 provided without recourse, and any ¹required¹ fees or other required
28 ¹**【**or optional¹**】** contributions of those services shall be considered as
29 interest when determining the rate of interest for purposes of
30 compliance with a law with which an earned income access service
31 provider is required to comply pursuant to the provisions of this
32 section.

33 c. ¹Each earned income access provider shall annually register
34 with the department in a form and manner prescribed by the
35 department.

36 d.¹ Any person who violates any provision of this act shall be
37 liable for a penalty, in addition to any other penalty imposed by law, of
38 not more than \$5,000 for each violation.
39

40 4. This act shall take effect on the 90th day next following
41 enactment.