

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3450

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 19, 2020

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 3450.

This bill creates certain requirements for earned income access service providers. Under the bill, “earned income access services” means the delivery of funds to a consumer that represent earned but unpaid income.

The bill requires an earned income access service provider to offer earned income access services through a contractual arrangement with an obligor or a service provider to an obligor, or a consumer in which the provider verifies a consumer’s net earned income, delivers earned income to the consumer prior to the date on which the obligor is scheduled to pay the consumer, and the amount of the earned income delivered by the provider to the consumer is reduced or withheld from the consumer’s next payment.

The bill provides that an obligor may not share information with an earned income access service provider pertaining to the obligor’s accrued and expected obligations to the consumer unless:

- (1) the obligor or service provider to the obligor has entered into a contractual arrangement for earned income access services with the earned income access service provider; and
- (2) the consumer consents to sharing that information.

Under the bill, the imposition of a fee on a consumer who opts to use the services of an earned income access service provider, and the reduction or withholding from the consumer payment, is not in violation of current law prohibiting deductions from an employee’s wages, provided that the consumer is informed in writing of the right to receive the full amount of the consumer’s wages, without discount, if the consumer waits until the regular payday.

Under the bill, a provider that contracts directly with a consumer is not to charge a mandatory fee to the customer.

The bill requires earned income access services that do not comply with certain requirements of the bill to comply with:

- (1) the provisions of the civil and criminal usury laws;

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

(3) the federal "Truth in Lending Act" and the regulations implementing that act, to provide any disclosures required for closed-end loans.

For purposes of the bill, earned income access services that do not comply with certain requirements of the bill are considered a loan, even if those services are provided without recourse, and any fees or other required or optional contributions of those services are to be considered as interest when determining the rate of interest for purposes of compliance with a law with which an earned income access service provider is required to comply.

The bill also requires that earned income access providers register with the Department of Banking and Insurance. Any person who violates any provision of the bill is liable for a penalty, in addition to any other penalty imposed by law, of not more than \$5,000 for each violation.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) require earned income access providers to register with the Department of Banking and Insurance;

(2) provide that earned income delivered to a consumer be based on net income rather than gross income; and

(3) permit providers to contract directly with consumers provided no mandatory fees are charged to the consumer.