

SENATE, No. 866

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 14, 2020

Sponsored by:

Senator NELLIE POU
District 35 (Bergen and Passaic)
Senator TROY SINGLETON
District 7 (Burlington)

Co-Sponsored by:

Senators Ruiz, Scutari and Singer

SYNOPSIS

Creates certain requirements for earned income access services.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/29/2020)

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

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

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

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

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

27

28 2. a. An earned income access service provider shall offer
29 earned income access services through a contractual arrangement
30 with an obligor in which the provider delivers earned income to the
31 consumer prior to the date on which the obligor is scheduled to pay
32 the consumer, and the obligor deducts the amount of the earned
33 income delivered by the provider to the consumer from the
34 consumer’s next paycheck.

35 b. An obligor shall not share information with the earned
36 income access service provider pertaining to the obligor’s accrued
37 and expected obligations to the consumer unless:

38 (1) the obligor has entered into a contractual arrangement for
39 earned income access services with the earned income access
40 service provider; and

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

42 c. An earned income access service provider shall not enter
43 into a contractual arrangement with a consumer that permits
44 delivery of earned income directly to the consumer that is to be
45 repaid directly by the consumer to the provider.

46 d. The imposition of a fee on a consumer who opts to use the
47 services of an earned income access service provider shall not
48 violate section 4 of P.L.1965, c.173 (C.34:11-4.4), provided that the

1 consumer is informed in writing of the right to receive the full
2 amount of the consumer's wages, without discount, if the consumer
3 waits until the regular payday.

4 e. An earned income access service provider shall comply
5 with:

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

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

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

13 f. For purposes of this section:

14 (1) earned income access services shall be considered a loan,
15 even if those services are provided without recourse; and

16 (2) any fees or other required or optional contributions shall be
17 considered as interest when determining the rate of interest for
18 purposes of compliance with a law with which an earned income
19 access service provider is required to comply pursuant to the
20 provisions of this section.

21 g. Any person who violates any provision of this act shall be
22 liable for a penalty, in addition to any other penalty imposed by
23 law, of not more than \$5,000 for each violation.

24

25 3. This act shall take effect on the 90th day next following
26 enactment.

27

28 STATEMENT

29

30 This bill creates certain requirements for earned income access
31 services. Under the bill, "earned income access services" means the
32 delivery of funds to a consumer that represent earned but unpaid
33 income.

34 The bill requires an earned income access service provider to
35 offer earned income access services through a contractual
36 arrangement with an obligor in which the provider delivers earned
37 income to the consumer prior to the date on which the obligor is
38 scheduled to pay the consumer, and the obligor deducts the amount
39 of the earned income delivered by the provider to the consumer
40 from the consumer's next paycheck.

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

44 (1) the obligor has entered into a contractual arrangement for
45 earned income access services with the earned income access
46 service provider; and

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

1 The bill prohibits an earned income access service provider from
2 entering into a contractual arrangement with a consumer that
3 permits delivery of earned income directly to the consumer that is
4 to be repaid directly by the consumer to the person.

5 Under the bill, the imposition of a fee on a consumer who opts to
6 use the services of an earned income access service provider is not
7 in violation of current law prohibiting deductions from an
8 employee's wages, provided that the consumer is informed in
9 writing of the right to receive the full amount of the consumer's
10 wages, without discount, if the consumer waits until the regular
11 payday.

12 The bill requires an earned income access service provider to
13 comply with:

- 14 (1) the provisions of the civil and criminal usury laws;
- 15 (2) any provisions of Titles 17 or 56 of the Revised Statutes that
16 would otherwise apply to a loan or credit transaction; and
- 17 (3) the federal "Truth in Lending Act" and the regulations
18 implementing that act, to provide any disclosures required for
19 closed-end loans.

20 For purposes of the bill, earned income access services are to be
21 considered a loan, even if those services are provided without
22 recourse. Any fees or other required or optional contributions are to
23 be considered as interest when determining the rate of interest for
24 purposes of compliance with a law with which an earned income
25 access service provider is required to comply.

26 The bill also provides that any person who violates any provision
27 of the bill is liable for a penalty, in addition to any other penalty
28 imposed by law, of not more than \$5,000 for each violation.