SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 866

STATE OF NEW JERSEY

DATED: JANUARY 27, 2020

The Senate Commerce Committee reports favorably Senate Bill No. 866.

This bill creates certain requirements for earned income access services. 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 in which the provider delivers earned income to the consumer prior to the date on which the obligor is scheduled to pay the consumer, and the obligor deducts the amount of the earned income delivered by the provider to the consumer from the consumer's next paycheck.

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

(1) 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.

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

Under the bill, the imposition of a fee on a consumer who opts to use the services of an earned income access service provider 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.

The bill requires an earned income access service provider 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 are to be considered a loan, even if those services are provided without recourse. Any fees or other required or optional contributions 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 provides that 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.