

SENATE, No. 891

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED JANUARY 27, 2022

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Prohibits tax preparers from engaging in certain practices involving refund anticipation checks and loans.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/3/2022)

1 AN ACT concerning tax refund anticipation loans and checks, and
2 amending and supplementing P.L.2007, c.258 (C.17:11D-1 et
3 seq.).

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

7
8 1. Section 1 of P.L.2007, c.258 (C.17:11D-1) is amended to read
9 as follows:

10 As used in this act:

11 "Client" means an individual who engages the services of a tax
12 preparer.

13 "Commissioner" means the Commissioner of Banking and
14 Insurance.

15 "Refund anticipation check" means a check, stored value card, or
16 other payment mechanism representing the actual or anticipated
17 proceeds of the client's federal or State income tax refund which
18 was issued by a depository institution, tax preparer, or other person
19 that received or anticipates receipt of a direct deposit of the client's
20 federal or State income tax refund and for which the client has paid
21 a fee or other consideration for such payment mechanism.

22 "Refund anticipation loan" means a loan that is secured by, or
23 that the tax preparer anticipates from, a client's federal or State
24 income tax refund.

25 "Tax preparation services" means services provided for a fee or
26 other consideration to a client to:

27 (1) assist with preparing or filing State or federal individual
28 income tax returns;

29 (2) assume final responsibility for completed work on an
30 individual income tax return on which preliminary work has been
31 completed by another; or

32 (3) offer, facilitate, or make refund anticipation loans or checks.

33 "Tax preparer" means an individual, corporation, partnership,
34 limited liability company, association, trustee or other entity who
35 provides tax preparation services.

36 (cf: P.L.2007, c.258, s.1)

37
38 2. Section 2 of P.L.2007, c.258 (C.17:11D-2) is amended to
39 read as follows:

40 2. No tax preparer shall:

41 a. Without reasonable cause, fail to promptly, diligently and
42 without unreasonable delay complete a client's tax return;

43 b. Obtain the signature of a client to a tax return or authorizing
44 document containing blank entries to be completed after the
45 document has been signed;

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.

- 1 c. Fail to sign a client's tax return as the tax preparer;
- 2 d. Fail or refuse to give a client a copy of any document
- 3 requiring the client's signature within a reasonable time after the
- 4 client signs the document;
- 5 e. Fail to retain for at least four years a copy of individual
- 6 income tax returns;
- 7 f. Fail to maintain a confidential relationship with a client or
- 8 former client;
- 9 g. Fail to take reasonable measures to maintain the
- 10 confidentiality of information or documents provided by the client;
- 11 h. Produce, authorize, publish, disseminate, circulate, or cause
- 12 to make any false, deceptive, or misleading statement or
- 13 representation relating to or in connection with the offering or
- 14 provision of tax preparation services;
- 15 i. Require a client to enter into a refund anticipation loan or
- 16 refund anticipation check agreement in order to complete a tax
- 17 return;
- 18 j. Claim, or make representations to a client concerning,
- 19 credits or deductions for which the tax preparer knows or
- 20 reasonably should know the client does not qualify;
- 21 k. Charge, offer to accept, or accept a fee based on a
- 22 percentage of an anticipated refund in exchange for tax preparation
- 23 services; **[or]**
- 24 l. Withhold or decline to return to a client documentation
- 25 provided by the client for use in preparing a client's tax return; or
- 26 m. Provide, offer, or advertise refund anticipation loan or check
- 27 services using terms such as "free," "no cost," "no fee," or other
- 28 language that would lead a client to reasonably believe that the
- 29 refund anticipation loan or refund anticipation check is provided at
- 30 no cost to the client if the issuance of a refund anticipation loan or
- 31 refund anticipation check results in, or is predicated upon, the
- 32 assessment of higher or additional fees for other tax preparation or
- 33 other services than are charged to clients who do not receive refund
- 34 anticipation loan or refund anticipation check services.

35 (cf: P.L.2007, c.258, s.2)

36

37 3. Section 4 of P.L.2007, c.258 (C.17:11D-4) is amended to

38 read as follows:

39 4. A tax preparer shall provide an itemized statement of all

40 service charges and fees to the client, including, but not limited to,

41 charges for each of the following:

- 42 a. tax return preparation;
- 43 b. electronic filing of a tax return; **[and]**
- 44 c. providing or facilitating a refund anticipation loan or refund
- 45 anticipation check; and
- 46 d. interest, including the estimated amount of interest in the
- 47 event a refund is delayed, under the terms and conditions of a
- 48 refund anticipation loan or refund anticipation check.

49 (cf: P.L.2007, c.258, s.4)

1 4. (New section) It shall be an unlawful practice and violation
2 of P.L.1960, c.39 (C.56:8-1 et seq.) for a tax preparer to violate any
3 provision of P.L.2007, c.258 (C.17:11D-1 et seq.).
4

5 5. This act shall take effect immediately.
6
7

8 STATEMENT
9

10 This bill prohibits tax preparers from engaging in certain
11 practices involving refund anticipation checks and loans.

12 An income tax refund is the largest lump-sum payment that
13 many residents in the State receive in a given year, and many tax
14 preparers take advantage of this fact by offering residents—
15 particularly low-income residents—refund anticipation loans and
16 checks at exorbitant interest rates or with other exploitative
17 practices. Under this bill, tax preparers will be prohibited from
18 requiring clients to enter into a refund anticipation check agreement
19 in order to complete a tax return. Tax preparers will also be
20 prohibited from providing, offering, or advertising refund
21 anticipation loan or check services using terms such as “free,” “no
22 cost,” “no fee,” or other language that would lead a client to
23 reasonably believe that the refund anticipation loan or check is
24 provided at no cost to the client if the issuance of a refund
25 anticipation loan or check results in, or is predicated upon, the
26 assessment of higher or additional fees for other tax preparation or
27 other services than are charged to clients who do not receive refund
28 anticipation loan or check services.

29 Additionally, tax preparers will be required to provide an
30 itemized statement of any service charges or fees for providing or
31 facilitating a refund anticipation check and any interest charged,
32 including the estimated amount of interest in the event a refund is
33 delayed, under the terms and conditions of a refund anticipation
34 loan or refund anticipation check. Tax preparers who violate any of
35 the provisions of this bill will be subject to the Consumer Fraud
36 Act. As used in this bill, “refund anticipation check” means a check,
37 stored value card, or other payment mechanism representing the
38 actual or anticipated proceeds of the client’s federal or State income
39 tax refund which was issued by a depository institution, tax
40 preparer, or other person that received or anticipates receipt of a
41 direct deposit of the client’s federal or State income tax refund and
42 for which the client has paid a fee or other consideration for such
43 payment mechanism.