

[First Reprint]

SENATE, No. 891

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED JANUARY 27, 2022

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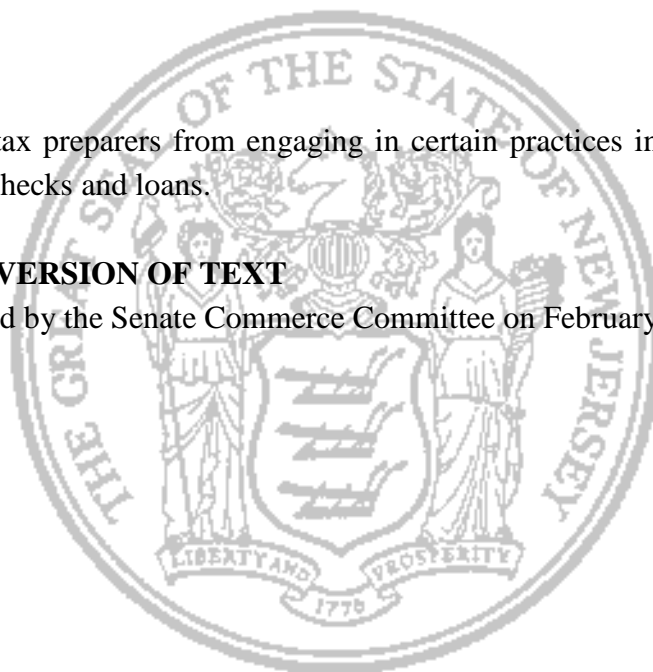
**Senator Gopal, Assemblywoman Quijano, Assemblyman Giblin and
Assemblywoman McKnight**

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on February 10, 2022, with amendments.



(Sponsorship Updated As Of: 6/16/2022)

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

10 1. 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

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted February 10, 2022.

- 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 charges¹and fees¹ 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. ¹(1) any¹ interest, including the estimated amount of interest
47 in the event a refund is delayed, under the terms and conditions of a
48 refund anticipation loan ¹**[or]** ; and (2) any amounts to be paid to

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1 the tax preparer in the event a refund is delayed, under the terms
2 and conditions of a¹ refund anticipation check.

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

4

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

8

9 5. This act shall take effect immediately ¹and its application
10 shall begin with tax filings prepared in 2023 for calendar year
11 2022¹.