

17:11D-1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2007 **CHAPTER:** 258
NJSA: 17:11D-1 (Concerns tax preparation services for certain clients)
BILL NO: A1698 (Substituted for S2159)

SPONSOR(S): Fisher and Cruz-Perez

DATE INTRODUCED: January 10, 2006

COMMITTEE: **ASSEMBLY:** Consumer Affairs

SENATE: Commerce

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 7, 2008

SENATE: January 7, 2008

DATE OF APPROVAL: January 11, 2008

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Third reprint enacted)

A1698

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S2159

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

[VETO MESSAGE:](#) [Yes](#)

[GOVERNOR'S PRESS RELEASE ON SIGNING:](#) [Yes](#)

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

IS 5/28/08

Title 17.
Chapter
11D.(New)
Tax Preparation
Services
§§1-7 -
C.17:11D-1 to
17:11D-7
§8 - Note to §§1-7

P.L. 2007, CHAPTER 258, *approved January 11, 2008*
Assembly, No. 1698 (*Third Reprint*)

1 **AN ACT** concerning tax preparation services and supplementing
2 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 "Client" means an individual who engages the services of a tax
9 preparer.

10 "Commissioner" means the Commissioner of Banking and
11 Insurance.

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

15 "Tax preparation services" means services provided for a fee or
16 other consideration to a client to:

17 (1) assist with preparing or filing State or federal individual
18 income tax returns;

19 (2) assume final responsibility for completed work on an
20 individual income tax return on which preliminary work has been
21 completed by another; or

22 (3) offer ²[or],² facilitate ²[the provision of], or make² refund
23 anticipation loans.

24 "Tax preparer" means an individual, corporation, partnership,
25 limited liability company, association, trustee or other entity who
26 provides tax preparation services.

27

28 2. No tax preparer shall:

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

31 b. Obtain the signature of a client to a tax return or authorizing
32 document containing blank entries to be completed after the
33 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:

¹Assembly ACO committee amendments adopted March 6, 2006.

²Senate SCM committee amendments adopted May 14, 2007.

³Assembly amendments adopted in accordance with Governor's recommendations December 10, 2007.

- 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 in
- 16 order to complete a tax return;
- 17 j. Claim, or make representations to a client concerning, credits
- 18 or deductions for which the tax preparer knows or reasonably
- 19 should know the client does not qualify;
- 20 k. Charge, offer to accept, or accept a fee based on a percentage
- 21 of an anticipated refund in exchange for tax preparation services;
- 22 or
- 23 l. Withhold or decline to return to a client documentation
- 24 provided by the client for use in preparing a client's tax return.
- 25

26 3. a. ²Any tax preparer offering, facilitating, or making refund

27 anticipation loans shall comply with the provisions of the "New

28 Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et

29 seq.), N.J.S.2C:21-19, and R.S.31:1-1 et seq. The interest rate for

30 any loan shall include any rate, fee, charge, consideration, or other

31 thing of value received or retained by, or credited to, the lender,

32 directly or indirectly, for the loan or forbearance.

33 b.² At the time a tax preparer offers ²[to make]² or ²[facilitate]

34 facilitates² a refund anticipation loan to the client, the tax preparer

35 shall provide, and verbally explain, to the client the following

36 statement, to be printed in at least 14-point type:

37 NOTICE TO BORROWER

38 THIS IS A LOAN. THE ANNUAL PERCENTAGE RATE

39 (APR), BASED ON THE ESTIMATED PAYMENT PERIOD IS

40 (fill in estimated APR). YOUR TAX REFUND WILL BE USED

41 TO REPAY THE LOAN. AS A RESULT, THE AMOUNT OF

42 YOUR REFUND WILL BE REDUCED BY _____ (fill in the

43 dollar amount) FOR FEES, INTEREST AND OTHER CHARGES.

44 AS AN ALTERNATIVE TO THIS LOAN, YOU CAN

45 RECEIVE YOUR FULL REFUND IN APPROXIMATELY TWO

46 WEEKS IF YOU FILE YOUR RETURN ELECTRONICALLY

47 AND THE INTERNAL REVENUE SERVICE WILL SEND YOUR

1 FULL REFUND TO YOUR BANK ACCOUNT.

2 ²[b.] c.² If, under the terms of the refund anticipation loan, the
3 client is subject to additional interest when a refund is delayed, the
4 following statement shall also be included in the notice:

5 IF YOU CHOOSE TO TAKE THIS LOAN AND YOUR
6 REFUND IS DELAYED, YOU MAY HAVE TO PAY
7 ADDITIONAL INTEREST.

8 ²[c.] d.² A tax preparer may use an alternative disclosure in lieu
9 of the disclosure set forth in subsections ²[a.] b.² and ²[b.] c.²
10 provided that:

11 (1) the information provided to the taxpayer in the alternative
12 disclosure includes information substantially equivalent in scope
13 and content to the specific language set forth in subsections ²[a.]
14 b.² and ²[b.] c.²;

15 (2) the alternative disclosure includes a chart listing examples of
16 the refund anticipation loan fees and Annual Percentage Rates ²[(
17]² calculated using the guidelines established under the federal
18 Truth in Lending Act ², title I of Pub.L.90-321² (15 U.S.C.s.1601 et
19 seq.) ²[(
20]² for loans of at least three different representative loan
21 amounts; and

22 (3) the alternative disclosure includes a chart listing the
23 estimated timelines for the delivery of funds to the taxpayer under
24 various delivery methods, including Internal Revenue Service
25 mailed check, Internal Revenue Service direct deposit into a
26 taxpayer's preexisting bank account, and through a refund
27 anticipation loan.

28 4. A tax preparer shall provide an itemized statement of service
29 charges to the client, including, but not limited to, charges for each
30 of the following:

- 31 a. tax return preparation;
32 b. electronic filing of a tax return; and
33 c. providing or facilitating a refund anticipation loan.
34

35 5. ²[A] In addition to any sanctions provided by N.J.S.2C:21-
36 19, R.S.31:1-1 et seq., or any other provision of law, a² tax preparer
37 who violates any provision of this act shall be liable to a ²civil
38 administrative² penalty not exceeding \$1,000 for each violation ²,²
39 to be collected ²[by the commissioner]² in a summary proceeding
40 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,
41 c.274 (C.2A:58-10 et seq.).
42

43 6. The provisions of this act shall not apply to:

- 44 a. a tax preparer providing tax preparation services to less than
45 six clients per calendar year;
46 b. an individual providing tax preparation services for a spouse,

- 1 parent, grandparent, child or sibling;
- 2 c. an employee who, as part of the regular clerical duties of his
- 3 or her employment, prepares an employer's income, sales or payroll
- 4 tax returns; ¹~~or~~¹
- 5 d. any fiduciary, or the regular employee of a fiduciary, while
- 6 acting on behalf of the fiduciary estate, the testator, trustor, grantor,
- 7 or their beneficiaries ¹;
- 8 e. an attorney admitted to practice law in New Jersey;
- 9 f. a certified public accountant ²or public accountant² qualified
- 10 to practice in New Jersey; ³~~or~~³
- 11 g. an enrolled agent who has passed the special enrollment
- 12 examination administered by the Internal Revenue Service^{1 3}; or
- 13 h. the Internal Revenue Service's Volunteer Income Tax
- 14 Assistance (VITA) Program, provided that it receives no
- 15 compensation for or in connection with any services performed for
- 16 or products purchased by the taxpayer³.

17

18 7. The commissioner shall promulgate rules and regulations in

19 accordance with the "Administrative Procedure Act," P.L.1968,

20 c.410 (C.52:14B-1 et seq.) necessary to carry out the provisions of

21 this act.

22

23 8. This act shall take effect on the first day of the third month

24 following enactment.

25

26

27 _____

28

29 Concerns tax preparation services for certain clients.

ASSEMBLY, No. 1698

STATE OF NEW JERSEY

212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Assemblyman DOUGLAS H. FISHER
District 3 (Salem, Cumberland and Gloucester)
Assemblywoman NILSA CRUZ-PEREZ
District 5 (Camden and Gloucester)

Co-Sponsored by:

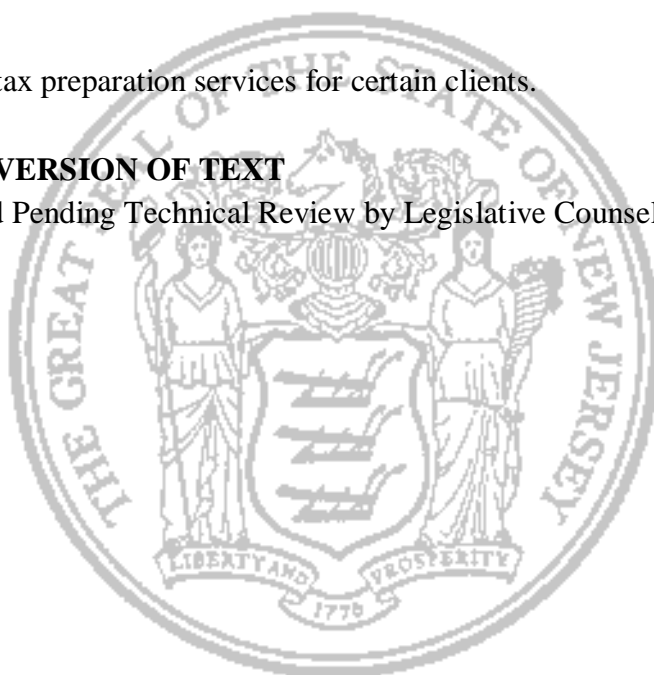
Assemblymen Stack, Stanley, Hackett, Assemblywoman Quigley,
Assemblymen Diegnan, Mayer, Chivukula, Panter, Egan, Gusciora,
Conners, Assemblywoman Stender, Assemblyman Cryan,
Assemblywoman Voss, Assemblymen Burzichelli, Conaway, Johnson,
Caraballo, Vas, Scalera, Assemblywoman Oliver, Assemblymen Payne,
Gordon, Barnes, McKeon and Wisniewski

SYNOPSIS

Concerns tax preparation services for certain clients.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning tax preparation services and supplementing
2 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 "Client" means an individual who engages the services of a tax
9 preparer.

10 "Commissioner" means the Commissioner of Banking and
11 Insurance.

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

15 "Tax preparation services" means services provided for a fee or
16 other consideration to a client to:

17 (1) assist with preparing or filing State or federal individual
18 income tax returns;

19 (2) assume final responsibility for completed work on an
20 individual income tax return on which preliminary work has been
21 completed by another; or

22 (3) offer or facilitate the provision of refund anticipation loans.

23 "Tax preparer" means an individual, corporation, partnership,
24 limited liability company, association, trustee or other entity who
25 provides tax preparation services.

26

27 2. No tax preparer shall:

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

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

33 c. Fail to sign a client's tax return as the tax preparer;

34 d. Fail or refuse to give a client a copy of any document
35 requiring the client's signature within a reasonable time after the
36 client signs the document;

37 e. Fail to retain for at least four years a copy of individual
38 income tax returns;

39 f. Fail to maintain a confidential relationship with a client or
40 former client;

41 g. Fail to take reasonable measures to maintain the
42 confidentiality of information or documents provided by the client;

43 h. Produce, authorize, publish, disseminate, circulate, or cause
44 to make any false, deceptive, or misleading statement or
45 representation relating to or in connection with the offering or
46 provision of tax preparation services;

47 i. Require a client to enter into a refund anticipation loan in
48 order to complete a tax return;

- 1 j. Claim, or make representations to a client concerning, credits
2 or deductions for which the tax preparer knows or reasonably
3 should know the client does not qualify;
- 4 k. Charge, offer to accept, or accept a fee based on a percentage
5 of an anticipated refund in exchange for tax preparation services;
6 or
- 7 l. Withhold or decline to return to a client documentation
8 provided by the client for use in preparing a client's tax return.
9
- 10 3. a. At the time a tax preparer offers to make or facilitate a
11 refund anticipation loan to the client, the tax preparer shall provide,
12 and verbally explain, to the client the following statement, to be
13 printed in at least 14-point type:
- 14 NOTICE TO BORROWER
- 15 THIS IS A LOAN. THE ANNUAL PERCENTAGE RATE
16 (APR), BASED ON THE ESTIMATED PAYMENT PERIOD IS
17 (fill in estimated APR). YOUR TAX REFUND WILL BE USED
18 TO REPAY THE LOAN. AS A RESULT, THE AMOUNT OF
19 YOUR REFUND WILL BE REDUCED BY _____ (fill in the
20 dollar amount) FOR FEES, INTEREST AND OTHER CHARGES.
- 21 AS AN ALTERNATIVE TO THIS LOAN, YOU CAN
22 RECEIVE YOUR FULL REFUND IN APPROXIMATELY TWO
23 WEEKS IF YOU FILE YOUR RETURN ELECTRONICALLY
24 AND THE INTERNAL REVENUE SERVICE WILL SEND YOUR
25 FULL REFUND TO YOUR BANK ACCOUNT.
- 26 b. If, under the terms of the refund anticipation loan, the client is
27 subject to additional interest when a refund is delayed, the
28 following statement shall also be included in the notice:
- 29 IF YOU CHOOSE TO TAKE THIS LOAN AND YOUR
30 REFUND IS DELAYED, YOU MAY HAVE TO PAY
31 ADDITIONAL INTEREST.
- 32 c. A tax preparer may use an alternative disclosure in lieu of the
33 disclosure set forth in subsections a. and b. provided that:
- 34 (1) the information provided to the taxpayer in the alternative
35 disclosure includes information substantially equivalent in scope
36 and content to the specific language set forth in subsections a. and
37 b.;
- 38 (2) the alternative disclosure includes a chart listing examples of
39 the refund anticipation loan fees and Annual Percentage Rates
40 (calculated using the guidelines established under the federal Truth
41 in Lending Act (15 U.S.C. s.1601 et seq.)) for loans of at least three
42 different representative loan amounts; and
- 43 (3) the alternative disclosure includes a chart listing the
44 estimated timelines for the delivery of funds to the taxpayer under
45 various delivery methods, including Internal Revenue Service
46 mailed check, Internal Revenue Service direct deposit into a
47 taxpayer's preexisting bank account, and through a refund
48 anticipation loan.

1 the bill, but presented in a different format, to continue using their
2 current formats. In addition, the bill requires tax preparers to
3 provide itemized statements of service charges, including charges
4 for tax return preparation, electronic filing, and providing or
5 facilitating a refund anticipation loan.

6 The bill specifies that, for each violation of its provisions, a
7 penalty up to \$1,000 may be imposed, to be collected by the
8 Commissioner of Banking and Insurance in a summary proceeding
9 pursuant to the "Penalty Enforcement Law of 1999," P.L. 1999,
10 c.274 (C. 2A:58-10 et seq.).

11 Finally, the bill specifically exempts the following people from
12 complying with its provisions:

- 13 • tax preparers providing tax preparation services to less than six
14 clients per calendar year;
- 15 • individuals providing tax preparation services for a spouse,
16 parent, grandparent, child or sibling;
- 17 • employees who, as part of the regular clerical duties of their
18 employment prepare an employer's income, sales or payroll tax
19 returns; and
- 20 • fiduciaries, or the regular employees of a fiduciary, while acting
21 on behalf of the fiduciary estate, the testator, trustor, grantor, or
22 their beneficiaries.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1698

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 6, 2006

The Assembly Consumer Affairs Committee reports favorably and with committee amendments Assembly Bill No. 1698.

As amended, Assembly Bill No. 1698 requires tax preparers to follow certain guidelines of professional conduct during transactions with clients. A tax preparer is defined as an individual, corporation, partnership, or other entity who, for a fee or other consideration, engages in the business of assisting with, or preparing federal or State income tax returns.

Under the bill, tax preparers are required to meet certain standards, including:

- promptly completing clients' tax returns;
- signing returns as the tax preparer;
- providing clients with copies of all documents requiring their signature;
- retaining certain files;
- maintaining confidentiality;
- not claiming credits or deductions for which clients do not qualify; and
- not accepting a fee based on a percentage of an anticipated refund.

The bill also prohibits a tax preparer from requiring a client to enter into a refund anticipation loan. At the time a tax preparer offers to make or facilitate a refund anticipation loan to the client, the tax preparer is required by the bill to provide the client with a notice alerting the client to the estimated annual percentage rate for the loan and the dollar amount by which the refund will be reduced for fees, interest and other charges. In cases when the client is subject to additional interest if the refund is delayed, the notice must also include a statement to that effect. Under the bill, an alternative to this disclosure may be used, provided the information included is substantially equivalent and includes certain charts.

In addition, the bill requires tax preparers to provide itemized statements of service charges, including charges for tax return

preparation, electronic filing, and providing or facilitating a refund anticipation loan.

The bill specifies that, for each violation of its provisions, a penalty up to \$1,000 may be imposed, to be collected by the Commissioner of Banking and Insurance in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L. 1999, c.274 (C. 2A:58-10 et seq.).

Finally, the amended bill specifically exempts the following people from complying with its provisions:

- tax preparers providing tax preparation services to less than six clients per calendar year;
- individuals providing tax preparation services for a spouse, parent, grandparent, child or sibling;
- employees who, as part of the regular clerical duties of their employment prepare an employer's income, sales or payroll tax returns;
- attorneys admitted to practice law in New Jersey;
- certified public accountants qualified to practice in New Jersey;
- fiduciaries, or the regular employees of a fiduciary, while acting on behalf of the fiduciary estate, the testator, trustor, grantor, or their beneficiaries; and
- enrolled agents of the Internal Revenue Service.

This bill was pre-filed for introduction in the 2006 legislative session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

At the sponsor's request, the committee amended the bill to include attorneys, certified public accountants and enrolled agents of the Internal Revenue Service in the list of individuals exempted from its provisions.

SENATE COMMERCE COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1698

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 14, 2007

The Senate Commerce Committee reports favorably and with committee amendments Assembly Bill No. 1698 (1R).

This bill, as amended, requires tax preparers to follow certain guidelines of professional conduct during transactions with clients. A tax preparer is defined as an individual, corporation, partnership, or other entity who, for a fee or other consideration, engages in the business of assisting with, or preparing federal or State income tax returns. Pursuant to the provisions of the bill, the following are not considered to be tax preparers: persons providing tax preparation services to less than six clients per calendar year; persons providing individual tax preparation services to family members; employees who regularly prepare their employer's tax returns; attorneys; certified public accountants and public accountants; fiduciaries while acting in their fiduciary capacity; and enrolled agents of the Internal Revenue Service.

Tax preparers shall meet certain standards, including:

- promptly completing clients' tax returns;
- signing returns as the tax preparer;
- providing clients with copies of all documents requiring their signature;
- retaining certain files;
- maintaining confidentiality;
- not claiming credits or deductions for which clients do not qualify; and
- not accepting a fee based on a percentage of an anticipated refund.

The bill also prohibits a tax preparer from requiring a client to enter into a refund anticipation loan in order to complete the client's tax return. Any tax preparer offering, facilitating, or making refund anticipation loans as part of any tax preparation services shall comply with the provisions of the "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.), N.J.S.2C:21-19, the criminal usury statute, and R.S.31:1-1 et seq., concerning interest and usury.

The interest rate for any refund anticipation loan shall include any rate, fee, charge, consideration, or other thing of value received or retained by, or credited to, the lender, directly or indirectly, for the loan or forbearance.

The bill requires the tax preparer to provide the client with a notice alerting the client to the estimated annual percentage rate for the refund anticipation loan and the dollar amount by which the refund will be reduced for fees, interest and other charges. If, under the terms of the loan, the client is subject to additional interest for delays with the refund, the notice shall also include a statement to that effect. The tax preparer may use an alternative form of disclosure, provided the information included is substantially equivalent and includes certain charts pertaining to examples of refund anticipation loans and the calculation of their annual percentage rates.

Additionally, the bill requires tax preparers to provide itemized statements of service charges, including charges for tax return preparation, electronic filing, and providing or facilitating a refund anticipation loan.

Finally, the bill specifies that, for each violation of its provisions, a penalty up to \$1,000 may be imposed, to be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C. 2A:58-10 et seq.).

This bill, as amended, is identical to the provisions of Senate Bill No. 2159 (1R), as reported by the committee.

The committee amendments to the bill:

- provide that public accountants, like certified public accountants, are exempt from the provisions of the bill, in recognition of their licensing and continuing education requirements, and their oversight by the State Board of Accountancy;

- establish that any tax preparer offering, facilitating, or making refund anticipation loans shall comply with the provisions of the "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.), N.J.S.2C:21-19, the criminal usury statute, and R.S.31:1-1 et seq., concerning interest and usury;

- clarify that the interest rate for any refund anticipation loan shall include any rate, fee, charge, consideration, or other thing of value received or retained by, or credited to, the lender, directly or indirectly, for the loan or forbearance; and

- remove the requirement that the Commissioner of Banking and Insurance initiate the collection of any civil administrative penalty pursuant to the bill, which permits such collection to occur as part of any private or State initiated proceeding as permitted under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

SENATE, No. 2159

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED SEPTEMBER 18, 2006

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Concerns tax preparation services for certain clients.

CURRENT VERSION OF TEXT

As introduced.



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14 income tax refund.

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16 other consideration to a client to:

17 (1) assist with preparing or filing State or federal individual
18 income tax returns;

19 (2) assume final responsibility for completed work on an
20 individual income tax return on which preliminary work has been
21 completed by another; or

22 (3) offer or facilitate the provision of refund anticipation loans.

23 "Tax preparer" means an individual, corporation, partnership,
24 limited liability company, association, trustee or other entity who
25 provides tax preparation services.

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27 2. No tax preparer shall:

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

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

33 c. Fail to sign a client's tax return as the tax preparer;

34 d. Fail or refuse to give a client a copy of any document
35 requiring the client's signature within a reasonable time after the
36 client signs the document;

37 e. Fail to retain for at least four years a copy of individual
38 income tax returns;

39 f. Fail to maintain a confidential relationship with a client or
40 former client;

41 g. Fail to take reasonable measures to maintain the
42 confidentiality of information or documents provided by the client;

43 h. Produce, authorize, publish, disseminate, circulate, or cause
44 to make any false, deceptive, or misleading statement or
45 representation relating to or in connection with the offering or
46 provision of tax preparation services;

47 i. Require a client to enter into a refund anticipation loan in
48 order to complete a tax return;

S2159 SWEENEY

1 j. Claim, or make representations to a client concerning, credits
2 or deductions for which the tax preparer knows or reasonably
3 should know the client does not qualify;

4 k. Charge, offer to accept, or accept a fee based on a percentage
5 of an anticipated refund in exchange for tax preparation services;
6 or

7 l. Withhold or decline to return to a client documentation
8 provided by the client for use in preparing a client's tax return.
9

10 3. a. At the time a tax preparer offers to make or facilitate a
11 refund anticipation loan to the client, the tax preparer shall provide,
12 and verbally explain, to the client the following statement, to be
13 printed in at least 14-point type:

14 NOTICE TO BORROWER

15 THIS IS A LOAN. THE ANNUAL PERCENTAGE RATE
16 (APR), BASED ON THE ESTIMATED PAYMENT PERIOD IS
17 (fill in estimated APR). YOUR TAX REFUND WILL BE USED
18 TO REPAY THE LOAN. AS A RESULT, THE AMOUNT OF
19 YOUR REFUND WILL BE REDUCED BY _____ (fill in the
20 dollar amount) FOR FEES, INTEREST AND OTHER CHARGES.

21 AS AN ALTERNATIVE TO THIS LOAN, YOU CAN
22 RECEIVE YOUR FULL REFUND IN APPROXIMATELY TWO
23 WEEKS IF YOU FILE YOUR RETURN ELECTRONICALLY
24 AND THE INTERNAL REVENUE SERVICE WILL SEND YOUR
25 FULL REFUND TO YOUR BANK ACCOUNT.

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27 subject to additional interest when a refund is delayed, the
28 following statement shall also be included in the notice:

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30 REFUND IS DELAYED, YOU MAY HAVE TO PAY
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32 c. A tax preparer may use an alternative disclosure in lieu of the
33 disclosure set forth in subsections a. and b. provided that:

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35 disclosure includes information substantially equivalent in scope
36 and content to the specific language set forth in subsections a. and
37 b.;

38 (2) the alternative disclosure includes a chart listing examples of
39 the refund anticipation loan fees and Annual Percentage Rates
40 (calculated using the guidelines established under the federal Truth
41 in Lending Act (15 U.S.C. s.1601 et seq.)) for loans of at least three
42 different representative loan amounts; and

43 (3) the alternative disclosure includes a chart listing the
44 estimated timelines for the delivery of funds to the taxpayer under
45 various delivery methods, including Internal Revenue Service
46 mailed check, Internal Revenue Service direct deposit into a
47 taxpayer's preexisting bank account, and through a refund
48 anticipation loan.

S2159 SWEENEY

4

1 4. A tax preparer shall provide an itemized statement of service
2 charges to the client, including, but not limited to, charges for each
3 of the following:

- 4 a. tax return preparation;
- 5 b. electronic filing of a tax return; and
- 6 c. providing or facilitating a refund anticipation loan.

7
8 5. A tax preparer who violates any provision of this act shall be
9 liable to a penalty not exceeding \$1,000 for each violation to be
10 collected by the commissioner in a summary proceeding pursuant to
11 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
12 10 et seq.).

13
14 6. The provisions of this act shall not apply to:

- 15 a. a tax preparer providing tax preparation services to less than
16 six clients per calendar year;
- 17 b. an individual providing tax preparation services for a spouse,
18 parent, grandparent, child or sibling;
- 19 c. an employee who, as part of the regular clerical duties of his
20 or her employment, prepares an employer's income, sales or payroll
21 tax returns;
- 22 d. any fiduciary, or the regular employee of a fiduciary, while
23 acting on behalf of the fiduciary estate, the testator, trustor, grantor,
24 or their beneficiaries;
- 25 e. an attorney admitted to practice law in New Jersey;
- 26 f. a certified public accountant qualified to practice in New
27 Jersey; or
- 28 g. an enrolled agent who has passed the special enrollment
29 examination administered by the Internal Revenue Service.

30
31 7. The commissioner shall promulgate rules and regulations in
32 accordance with the "Administrative Procedure Act," P.L.1968,
33 c.410 (C.52:14B-1 et seq.) necessary to carry out the provisions of
34 this act.

35
36 8. This act shall take effect on the first day of the third month
37 following enactment.

38
39 **STATEMENT**

40
41 This bill requires tax preparers to follow certain guidelines of
42 professional conduct during transactions with clients. A tax
43 preparer is defined as an individual, corporation, partnership, or
44 other entity who, for a fee or other consideration, engages in the
45 business of assisting with, or preparing federal or State income tax
46 returns.

47 Under the bill, tax preparers are required to meet certain
48 standards, including:

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5

- 1 • promptly completing clients' tax returns;
- 2 • signing returns as the tax preparer;
- 3 • providing clients with copies of all documents requiring
- 4 their signature;
- 5 • retaining certain files;
- 6 • maintaining confidentiality;
- 7 • not claiming credits or deductions for which clients do not
- 8 qualify; and
- 9 • not accepting a fee based on a percentage of an anticipated
- 10 refund.

11 The bill also prohibits a tax preparer from requiring a client to
12 enter into a refund anticipation loan. At the time a tax preparer
13 offers to make or facilitate a refund anticipation loan to the client,
14 the tax preparer is required by the bill to provide the client with a
15 notice alerting the client to the estimated annual percentage rate for
16 the loan and the dollar amount by which the refund will be reduced
17 for fees, interest and other charges. In cases when the client is
18 subject to additional interest if the refund is delayed, the notice
19 must also include a statement to that effect. Under the bill, an
20 alternative to this disclosure may be used, provided the information
21 included is substantially equivalent and includes certain charts.

22 In addition, the bill requires tax preparers to provide itemized
23 statements of service charges, including charges for tax return
24 preparation, electronic filing, and providing or facilitating a refund
25 anticipation loan.

26 The bill specifies that, for each violation of its provisions, a
27 penalty up to \$1,000 may be imposed, to be collected by the
28 Commissioner of Banking and Insurance in a summary proceeding
29 pursuant to the "Penalty Enforcement Law of 1999," P.L. 1999,
30 c.274 (C. 2A:58-10 et seq.).

31 Finally, the bill specifically exempts the following people from
32 complying with its provisions:

- 33 • tax preparers providing tax preparation services to less than
- 34 six clients per calendar year;
- 35 • individuals providing tax preparation services for a spouse,
- 36 parent, grandparent, child or sibling;
- 37 • employees who, as part of the regular clerical duties of their
- 38 employment prepare an employer's income, sales or payroll
- 39 tax returns;
- 40 • attorneys admitted to practice law in New Jersey;
- 41 • certified public accountants qualified to practice in New
- 42 Jersey;
- 43 • fiduciaries, or the regular employees of a fiduciary, while
- 44 acting on behalf of the fiduciary estate, the testator, trustor,
- 45 grantor, or their beneficiaries; and
- 46 • enrolled agents of the Internal Revenue Service.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2159

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 14, 2007

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 2159.

This bill, as amended, requires tax preparers to follow certain guidelines of professional conduct during transactions with clients. A tax preparer is defined as an individual, corporation, partnership, or other entity who, for a fee or other consideration, engages in the business of assisting with, or preparing federal or State income tax returns. Pursuant to the provisions of the bill, the following are not considered to be tax preparers: persons providing tax preparation services to less than six clients per calendar year; persons providing individual tax preparation services to family members; employees who regularly prepare their employer's tax returns; attorneys; certified public accountants and public accountants; fiduciaries while acting in their fiduciary capacity; and enrolled agents of the Internal Revenue Service.

Tax preparers shall meet certain standards, including:

- promptly completing clients' tax returns;
- signing returns as the tax preparer;
- providing clients with copies of all documents requiring their signature;
- retaining certain files;
- maintaining confidentiality;
- not claiming credits or deductions for which clients do not qualify; and
- not accepting a fee based on a percentage of an anticipated refund.

The bill also prohibits a tax preparer from requiring a client to enter into a refund anticipation loan in order to complete the client's tax return. Any tax preparer offering, facilitating, or making refund anticipation loans as part of any tax preparation services shall comply with the provisions of the "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.), N.J.S.2C:21-19, the criminal usury statute, and R.S.31:1-1 et seq., concerning interest and usury. The interest rate for any refund anticipation loan shall include any rate,

fee, charge, consideration, or other thing of value received or retained by, or credited to, the lender, directly or indirectly, for the loan or forbearance.

The bill requires the tax preparer to provide the client with a notice alerting the client to the estimated annual percentage rate for the refund anticipation loan and the dollar amount by which the refund will be reduced for fees, interest and other charges. If, under the terms of the loan, the client is subject to additional interest for delays with the refund, the notice shall also include a statement to that effect. The tax preparer may use an alternative form of disclosure, provided the information included is substantially equivalent and includes certain charts pertaining to examples of refund anticipation loans and the calculation of their annual percentage rates.

Additionally, the bill requires tax preparers to provide itemized statements of service charges, including charges for tax return preparation, electronic filing, and providing or facilitating a refund anticipation loan.

Finally, the bill specifies that, for each violation of its provisions, a penalty up to \$1,000 may be imposed, to be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C. 2A:58-10 et seq.).

This bill, as amended, is identical to the provisions of Assembly Bill No. 1698 (2R), as reported by the committee.

The committee amendments to the bill:

- provide that public accountants, like certified public accountants, are exempt from the provisions of the bill, in recognition of their licensing and continuing education requirements, and their oversight by the State Board of Accountancy;

- establish that any tax preparer offering, facilitating, or making refund anticipation loans shall comply with the provisions of the "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.), N.J.S.2C:21-19, the criminal usury statute, and R.S.31:1-1 et seq., concerning interest and usury;

- clarify that the interest rate for any refund anticipation loan shall include any rate, fee, charge, consideration, or other thing of value received or retained by, or credited to, the lender, directly or indirectly, for the loan or forbearance; and

- remove the requirement that the Commissioner of Banking and Insurance initiate the collection of any civil administrative penalty pursuant to the bill, which permits such collection to occur as part of any private or State initiated proceeding as permitted under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

ASSEMBLY BILL NO. 1698

(SECOND REPRINT)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Assembly Bill No. 1698 (Second Reprint) with my recommendations for reconsideration.

This bill would require tax preparers engaged in the business of assisting with or preparing federal or state income tax returns to follow certain guidelines. The bill requires that tax preparers meet certain standards of conduct, including providing clients with copies of documents requiring their signature, maintaining confidentiality, and completing client tax returns in a prompt and accurate manner. The bill also provides much needed regulation in the area of "refund anticipation loans," which often employ usurious rates in exchange for the client being able to receive a refund a little sooner.

I commend the sponsors for this bill in that it provides needed protections for many hard working citizens. I share the sponsors' belief in the importance of not allowing our low to moderate income citizens to receive tax services without being fully informed of their rights and obligations. I further agree that citizens should be protected from inaccurate tax assistance from individuals refusing to sign their names to the tax returns they prepare, as well as protection from being charged exorbitant interest rates and fees related to the receipt of tax refunds they have earned. The bill is therefore necessary and I applaud the sponsors for its passage.

I also commend the sponsors for their insight in recognizing the need for several exemptions. The bill

appropriately exempts entities and individuals not likely to engage in tax preparation for profit, including individuals providing tax services to a spouse, child, or parent. Also exempt are organizations that already have existing standards of professional conduct, such as attorneys licensed in New Jersey and certified public accountants. Not contained on the list of exemptions, however, is the Internal Revenue Service's Volunteer Income Tax Assistance (VITA) Program.

VITA was created to provide free tax assistance to handicapped, non-English speaking, elderly and other taxpayers who earn low to moderate incomes and are unable to prepare their own tax returns. In addition to free tax preparation services, VITA also offers free credit counseling. Certified volunteers receive training by the Internal Revenue Service to help prepare basic tax returns in communities across the country. The conduct of individuals serving the public through the VITA program is governed by the Volunteer Agreement Standards of Conduct. I firmly believe that the purpose and practice of the VITA program fits squarely within the rationale behind the bill's current list of exempt tax preparers as it is both an entity not engaged in the tax preparation business for profit and also monitors individuals through existing standards of professional conduct. Because the VITA program is not included in the list, I recommend the bill be amended to include this beneficial program on the list

of tax preparers that are exempt from the bill's provisions.

Accordingly, I herewith return Assembly Bill No. 1698 (Second Reprint) and recommend that it be amended as follows:

Page 4, Section 6, Line 46: Delete "or"

Page 5, Section 6, Line 2: After "Service" insert "; or h. the Internal Revenue Service's Volunteer Income Tax Assistance (VITA) Program, provided that it receives no compensation for or in connection with any services performed for or products purchased by the taxpayer."

Respectfully,

/s/ Jon S. Corzine

Governor

[seal]

Attest:

/s/ Kenneth H. Zimmerman

Chief Counsel to the Governor

Title



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Feb-12-08 Governor Corzine Ceremonially Signs Legislation to Help Working Families

NEWS RELEASE

Governor Jon S. Corzine
February 12, 2008

FOR MORE INFORMATION:

Press Office
609-777-2600

GOVERNOR CORZINE CEREMONIALLY SIGNS LEGISLATION TO HELP WORKING FAMILIES

NEWARK- While attending the 2008 opening of the Free Tax Preparation Center in Newark, Governor Jon S. Corzine today ceremonially signed two bills to assist low-and moderate-income working New Jersey families. The first bill, S-2647 expands program eligibility and enhances the benefit amount under the New Jersey Earned Income Tax Credit (EITC). The second bill, A-1698, permits free tax preparation centers (VITA sites) to offer Alternative Refund Anticipation Loans (A-RALs) to low income New Jersey filers without high fees or interest charges.

“With the expansion of the Earned Income Tax Credit, we are providing new economic opportunities to nearly 300,000 additional low- and moderate-income working families across the state,” said Governor Corzine. “By helping these families earn their way out of poverty, we are supporting self sufficiency and ensuring better lives for their children. I would encourage all eligible families to apply for these credits when they file their taxes this year.

“Low-and middle-income filers can use tax preparation centers such as this one run by Citizen Action and be guaranteed certain consumer protections without being charged excessive rates for these services.”

The EITC is a targeted income tax benefit that lessens the burden of payroll taxes for Social Security and Medicare. Under the new law, the credit is now available for married families with two or more children earning up to \$39,783 and for single parents with two or more children who earn up to \$37,783. These figures will be adjusted annually for inflation. Additionally, married workers without children who earn less than \$14,590 are now eligible to receive EITC

benefits in New Jersey for the first time. Individuals without children and earning less than \$12,590 may also qualify.

This program expansion is the first step in a three-step commitment. Step two, in fiscal 2009, requires raising the benefit level from 20 percent of the federal credit to 22.5%, and step three, in fiscal 2010 involves raising the benefit level to 25 % of the federal benefit.

“The expansion of the tax credit will provide assistance for hundreds of thousands of the poorest citizens of our State,” said Senator Ronald L. Rice, (D-Essex). “In these tough financial times we need to make sure that we do not turn our backs on the poorest New Jersey families. This law will bridge the gap between classes.”

“Unfortunately, America continues to see a widening gap between the haves and the have-nots – a gap we can reduce through the EITC,” said Senator Shirley K. Turner, (D-Mercer). “By doubling the number of EITC recipients with this bill, we are undertaking the single largest anti-poverty effort since we originally adopted the EITC in 2000.”

The Alternative Rapid Anticipation Loan bill cracks down on predatory practices by companies that charge excessive costs for tax preparation and high interest Refund Anticipation Loans (RALs) to low-income workers. Tax preparers now must follow certain guidelines of professional conduct during transactions with clients. As a result, tax preparers are prohibited from requiring a client to enter into a refund anticipation loan and must be transparent about the costs involved. Tax preparers must also provide itemized statements of service charges, including charges for tax return preparation, electronic filing, and providing or facilitating a refund anticipation loan.

“Refund anticipation loans have unfairly targeted the working poor and are inherently exploitive,” said Assemblyman Doug Fisher (D-Cumberland/Salem/Gloucester). “Taxpayers looking for a speedy refund will no longer have to fear that their money will be taken away by a dishonest tax preparer charging egregious fees and sky-high interest rates.”

“Working people living on the economic edges need tax policies that provide a helping hand, not a cold shoulder,” said Assembly Majority Leader Bonnie Watson Coleman (D-Mercer). “For countless New Jerseyans, these changes will mean the difference between watching their children grow up in poverty, or giving them the opportunities they need to succeed.”

Primary sponsors of the legislation in the Senate were Senator Ronald L. Rice (D-Essex) and Senator Shirley K. Turner (D-Mercer). Assembly sponsors included Assembly Majority Leader Bonnie Watson Coleman (D-Mercer), Assemblymen Louis M. Manzo ((D-Hudson), Louis D. Greenwald (D-Camden), Wilfredo Caraballo (D-Essex), William D. Payne (D-Essex), John J. Burzichelli (D-Gloucester), Joseph Cryan (D-Union), Gary S. Schaer (D-Passaic), Alfred E. Steele (D-Passaic), Joseph Vas (D-Middlesex), Douglas H. Fisher (D-Cumberland/Salem/Gloucester), Neil M. Cohen (D-Union), Jim Whelan (D-Atlantic) and Assemblywoman Joan M. Quigley (D-Hudson/Bergen),

Primary sponsors of A-1698 were Senator Stephen M. Sweeney (D-Gloucester), Assemblyman Douglas H. Fisher (D-Cumberland/Salem/Gloucester) and Assemblywoman Nilsa Cruz-Perez (D-Camden).

###

Photos from Governor Corzine's public events are available in the Governor's Newsroom section on the State of New Jersey web page, <http://www.nj.gov/governor/news/>



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