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UNFINISHED BUSINESS

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Bill No: SB 497  
Author: Limón (D), et al.  
Amended: 8/16/21  
Vote: 21

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SENATE BANKING & F.I. COMMITTEE: 9-0, 4/7/21

AYES: Limón, Ochoa Bogh, Bradford, Caballero, Dahle, Durazo, Hueso, Min, Portantino

SENATE HUMAN SERVICES COMMITTEE: 5-0, 4/20/21

AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21

AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 40-0, 6/1/21

AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

ASSEMBLY FLOOR: 73-0, 8/26/21 (Consent) - See last page for vote

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**SUBJECT:** Qualifying accounts: overdraft features: direct deposit

**SOURCE:** National Consumer Law Center

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**DIGEST:** This bill revises the definition of qualifying accounts that can receive direct deposits related to unemployment compensation, child support, and other public assistance payments and requires the Employment Development Department to additionally provide direct deposit options for recipients of disability or family temporary disability insurance benefits, as specified.

*Assembly Amendments* are technical and clarifying in nature, including harmonizing the EDD provisions with the new law enacted by AB 138 (Committee on Budget, Chapter 78, Statutes of 2021).

**ANALYSIS:**

Existing law:

- 1) Requires that if child support payments are deposited directly into an account of the recipient's choice, the funds only be deposited into a "qualifying account" defined as a demand deposit or savings account at an insured financial institution in the name of the person entitled to the receipt of child support payments, or a prepaid card account that meets specific criteria. (Family Code Section 17325)
- 2) Requires direct deposit of public assistance benefits, when direct deposit is requested by a recipient, to only be made to the recipient's qualifying account at a financial institution, as defined. (Welfare and Institutions Code Section 11006.2)
- 3) Requires that unemployment compensation benefit payments only be deposited into an account that meets the requirements of a qualifying account for deposit of public assistance payments, as specified, when direct deposit is requested by a recipient of unemployment compensation benefits. (Unemployment Insurance Code Section 1339.1)
- 4) Requires that disability benefits be paid by the Employment Development Department (EDD) through public employment offices or other agencies approved by the director. (Unemployment Insurance Code Section 2701)
- 5) Defines "qualifying account" as one of the following:
  - a) A demand deposit or savings account at an insured financial institution in the name of the person entitled to receipt of public assistance payments; or
  - b) A prepaid card account that meets all of the following:
    - i) The account is held at an insured financial institution;
    - ii) The account is set up to meet the requirements for pass through deposit or share insurance so that the funds accessible through the account are eligible for insurance for the benefit of the person entitled to the receipt of public assistance payments, as specified;

- iii) The account is not attached to any credit or overdraft feature that is automatically repaid from the account after delivery of the payment; and
- iv) The issuer of the card complies with all of the requirements and provides the holder of the card with all of the consumer protections that apply to a payroll card account under federal law, as specified.

This bill:

1) Amends the definition of “qualifying account” to mean:

- a) A demand deposit or savings account at an insured depository financial institution that is offered directly by the insured depository financial institution on its internet website or through its branches and that is in the name of the person entitled to receipt of child support, unemployment compensation and CalWORKs payments; or
- b) A prepaid account or a demand deposit or savings account offered by, or through, an entity other than an insured depository financial institution, that meets all of the following:
  - i) The account is held at an insured depository financial institution;
  - ii) The account is set up to meet the requirements direct or passthrough deposit or share insurance payable to the person entitled to the receipt of public assistance payments, as specified;
  - iii) The account is not attached to a credit or overdraft feature that is automatically repaid from the account unless the credit or overdraft feature has no fee, charge, or cost, whether direct, required, voluntary, or involuntary, or the credit or overdraft feature complies with the requirements for credit offered in connection with a prepaid account under the federal Truth in Lending Act and its implementing regulations; and
  - iv) The account complies with all of the requirements and provides the holder of the account with all of the consumer protections that apply to account under federal law, as specified.
- c) Adds a definition of “insured depository financial institution” as meaning a state or national bank, a state or federal savings and loan association, a mutual savings bank, or a state or federal credit union that holds deposits

insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

- d) Deletes references to and definitions of “issuer” and “prepaid card” or “prepaid card account.”
  - e) Deletes reference to “payroll card account” and instead references “prepaid account,” which has the same meaning as that term is defined in regulations under federal law.
- 2) Makes the above provisions applicable to disability benefits and requires that before commencing payment, EDD shall provide a person entitled to receive disability benefits or family temporary disability insurance benefits the option to receive payments by direct deposit into a qualifying account of the recipient’s choice, in addition to other alternative disbursement payment methods, including, but not limited to, checks.

## Comments

The provisions in existing state law were enacted in 2013 and 2014 to protect families receiving public assistance, unemployment insurance, or child support from being subject to inappropriate practices of certain financial institutions. The legislation sought to align state law governing the transfer of these payments with federal protections for prepaid accounts. In 2010, the federal Department of the Treasury ruled to allow the receipt of federal payments through an electronic method. In response to concerns about which electronic means, and essentially which types of card accounts, would be eligible for the receipt of federal funds, the new rule contained a number of criteria that prepaid cards would have to meet to be qualified to receive federal funds. Those criteria include not having an attached line of credit or loan feature that would cause automatic repayment from the card account and providing for liability protections for loss, theft, or unauthorized charges.

On April 1, 2019, the federal Consumer Financial Protection Bureau adopted rules governing prepaid accounts, which limit credit and overdraft features on prepaid cards. However, to continue charging overdraft fees, certain nonbank prepaid card providers have started to offer so-called “bank accounts” that do not comply with the federal and California rules for prepaid accounts. These fake “bank accounts,” which are sold by alternative financial services providers, are designed to encourage overdraft fees that put low-income consumers in a vulnerable and endless cycle of debt

Of the four types of payments covered by this bill, only some cases of child support payments are currently transferred via direct deposit to a recipient's checking or savings account. Unemployment benefits, disability benefits, and public assistance funds are currently administered through prepaid cards that comply with existing law. In the case of unemployment and disability benefits, however, the EDD may soon provide an option for a beneficiary to receive their payments via direct deposit to their bank account. If such an option is provided, this bill will protect those funds from being subject to deceptive overdraft fees.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee:

- 1) No costs to EDD, DSS, DCSS or the Department of Financial Protection and Innovation by updating criteria for a "qualifying account."
- 2) By modifying how counties must provide public assistance payments, this bill may impose a state-mandated local program. To the extent the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service, the county could be eligible for state reimbursement for costs.

**SUPPORT:** (Verified 8/26/21)

National Consumer Law Center (source)  
 California Low-income Consumer Coalition  
 California Reinvestment Coalition  
 Californians for Economic Justice  
 CAMEO - California Association for Micro Enterprise Opportunity  
 Center for Responsible Lending  
 Child Support Directors Association of California  
 Consumer Federation of California  
 Dolores Huerta Foundation  
 Hope for All: Helping Others Prosper Economically  
 Housing and Economic Rights Advocates  
 Public Counsel

**OPPOSITION:** (Verified 8/26/21)

None received

**ARGUMENTS IN SUPPORT:** The National Consumer Law Center is the sponsor of the bill and argues that the bill is necessary to "close a loophole that

allows nonbank prepaid card companies to evade California laws that prohibit overdraft fees on prepaid cards used to receive public assistance, unemployment compensation, or state-distributed child support payments. The bill will ensure that state funds go for their intended purpose of supporting families in need and are not drained off by fees.”

ASSEMBLY FLOOR: 73-0, 8/26/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Maienschein, Mathis, Mayes, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Bennett, Chen, Kiley, Low, McCarty, Nguyen

Prepared by: Michael Burdick / B. & F.I. /  
8/28/21 11:32:54

\*\*\*\* END \*\*\*\*