

2025 Regular Session

HOUSE BILL NO. 368

BY REPRESENTATIVE ST. BLANC

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CONSUMERS: Provides relative to earned wage access services

1 AN ACT

2 To enact Chapter 5 of Code Title XII of Code Book III of Title 9 of the Louisiana Revised
3 Statutes of 1950, to be comprised of R.S. 9:3591.1 through 3591.7, relative to
4 consumer-directed earned wage access services; to provide definitions; to require and
5 prohibit certain acts of providers of earned wage access services; to provide for
6 statutory compliance and applicability; to provide for annual reporting of earned
7 wage access services data; to provide for enforcement; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 5 of Code Title XII of Code Book III of Title 9 of the Louisiana
11 Revised Statutes of 1950, comprised of R.S. 9:3591.1 through 3591.7, is hereby enacted to
12 read as follows:

13 CHAPTER 5. LOUISIANA EARNED WAGE ACCESS SERVICES14 §3591.1. Short title

15 This Chapter shall be known and may be cited as the "Louisiana Earned
16 Wage Access Services Act".

17 §3591.2. Definitions

18 As used in this Chapter, the following terms have the following meanings
19 ascribed to them:

1 (1) "Consumer" means a natural person residing in this state. A provider
2 may use the mailing address provided by a consumer or the consumer's employer to
3 determine the consumer's state of residence.

4 (2) "Consumer-directed earned wage access services" means the business of
5 delivering to consumers access to earned but unpaid income based on the consumer's
6 representation and the provider's reasonable determination of the consumer's earned
7 but unpaid income.

8 (3) "Earned but unpaid income" means the salary, wages, compensation, or
9 other income that a consumer or an employer has represented and, that a provider has
10 reasonably determined, has been earned or has accrued to the benefit of the consumer
11 in exchange for the consumer's provision of services to an employer or on behalf of
12 an employer, including services provided on an hourly, project-based, piecework, or
13 other basis or when the consumer is an independent contractor of the employer, but,
14 which has not, at the time of the payment of proceeds, been paid to the consumer by
15 the employer.

16 (4) "Earned wage access services" means consumer-directed earned wage
17 access services or employer-integrated earned wage access services, or both.

18 (5) "Employer" means a person who employs a consumer or any other
19 person who is contractually obligated to pay a consumer's earned but unpaid income
20 in exchange for a consumer's provision of services to the person or on behalf of the
21 person, including but not limited to a consumer who is employed on an hourly basis,
22 a project-based, a piecework, or other basis or as independent contractor with respect
23 to the person. "Employer" does not mean a customer of an employer or any other
24 person whose obligation to make a payment of salary, wages, compensation, or other
25 income to a consumer is not based on the provision of services by the consumer for
26 or on behalf of the person.

27 (6) "Employer-integrated earned wage access services" means the business
28 of delivering to consumers access to earned but unpaid income that is based on

1 employment, income, and attendance data obtained directly or indirectly from an
2 employer, including without limitation an employer's payroll service provider.

3 (7) "Fee" means a charge imposed by a provider for delivery or expedited
4 delivery of proceeds to a consumer, a subscription or membership charge imposed
5 by a provider for a bona fide group of services that include earned wage access
6 services, or an amount paid by an employer to a provider on a consumer's behalf,
7 which entitles the consumer to receive proceeds at reduced or no cost to the
8 consumer. "Fee" does not mean a voluntary tip, gratuity, or donation.

9 (8) "Outstanding proceeds" means a payment of proceeds to a consumer by
10 a provider that has not yet been repaid to that provider.

11 (9) "Proceeds" means a payment to a consumer by a provider that is based
12 on earned but unpaid income.

13 (10) "Provider" means a person that is engaged in the business of offering
14 and providing earned wage access services to consumers. "Provider" does not
15 include any of the following:

16 (a) A service provider, such as a payroll service provider, whose role may
17 include verifying the available earnings but who is not contractually obligated to
18 fund proceeds delivered as part of an earned wage access service.

19 (b) An employer that offers a portion of salary, wages, or compensation
20 directly to his employees or independent contractors prior to the normally scheduled
21 pay date.

22 (c) An entity that offers or provides earned wage access services and reports
23 a consumer's payment or nonpayment of outstanding proceeds, fees, or voluntary
24 tips, gratuities, or other donations solely attributable to the earned wage access
25 services to a consumer reporting agency, as defined in Section 603(p) of the federal
26 Fair Credit Reporting Act, 15 U.S.C. 1681a(p).

27 §3591.3. Required acts of a provider

28 A provider shall:

1 (1) Develop and implement policies and procedures for responding to
2 questions raised by consumers and addressing complaints from consumers.

3 (2) Before entering into an agreement with a consumer for the provision of
4 earned wage access services, do all of the following:

5 (a) Inform the consumer of the consumer's rights under the agreement.

6 (b) Fully and clearly disclose to the consumer all provider-imposed fees or
7 a schedule of fees associated with the provision of earned wage access services.

8 (3) Inform the consumer of any material changes to the terms and conditions
9 of the earned wage access services agreement before implementing those changes.

10 (4) Allow the consumer to cancel use of the provider's earned wage access
11 services at any time, without incurring a fee for that cancellation.

12 (5) Whenever he offers a consumer the option to receive proceeds for a fee
13 or solicits a tip, gratuity, or other donation, provide the consumer at least one
14 reasonable option to obtain the same amount of proceeds at no cost and clearly
15 explain how the consumer may select the no-cost option.

16 (6) Comply with all applicable local, state, and federal privacy and
17 information security laws.

18 (7) Provide proceeds to a consumer via any means mutually agreed upon by
19 the consumer and the provider.

20 (8) If he seeks repayment of outstanding proceeds, fees, voluntary tips,
21 gratuities, or other donations from a consumer's account at a depository institution,
22 including via electronic transfer, do all of the following:

23 (a) Comply with applicable provisions of the federal Electronic Fund
24 Transfer Act, 15 U.S.C. 1693 et seq., and its implementing regulations.

25 (b) Reimburse the consumer for the full amount of any overdraft or non-
26 sufficient funds fees imposed on that consumer by the consumer's depository
27 institution, which were caused by the provider's attempt to seek payment of any
28 outstanding proceeds, fees, voluntary tips, gratuities, or other donations on a date
29 before, or in an incorrect amount from, the date or amount disclosed to the consumer.

1 The provisions of this Subparagraph shall not apply with respect to payments of
2 outstanding proceeds, fees, tips, gratuities, or other donations incurred by a consumer
3 through fraudulent means.

4 (9) If he solicits or receives a tip, gratuity, or donation from a consumer, do
5 all of the following:

6 (a) Clearly and conspicuously disclose to the consumer immediately prior
7 to each transaction that a tip, gratuity, or donation amount may be zero and is
8 voluntary.

9 (b) Clearly and conspicuously disclose in the agreement with the consumer
10 that tips, gratuities, or donations are voluntary and that the offering of earned wage
11 access services, including the amount of proceeds a consumer is eligible to request
12 and the frequency with which proceeds are provided to a consumer, is not contingent
13 on whether the consumer pays any tip, gratuity, or donation or on the size of any tip,
14 gratuity, or donation.

15 §3591.4. Prohibited acts of a provider

16 A provider shall not:

17 (1) Compel or attempt to compel repayment by a consumer of outstanding
18 proceeds, fees, voluntary tips, gratuities, or other donations through any of the
19 following means:

20 (a) By initiating a civil suit against the consumer in a court of competent
21 jurisdiction.

22 (b) By making unsolicited, outbound telephone calls.

23 (c) By using a third party to pursue collection of outstanding proceeds or
24 payments on the provider's behalf.

25 (d) By selling any outstanding amounts to a third-party debt collector or debt
26 purchaser.

27 (2) Share with an employer any fees, voluntary tips, gratuities, or other
28 donations that were received from or charged to a consumer for earned wage access
29 services.

1 (3) Require a consumer's credit score from a credit report to determine a
2 consumer's eligibility for earned wage access services.

3 (4) Accept payment from a consumer of outstanding proceeds, fees,
4 voluntary tips, gratuities, or donations via credit card or charge card.

5 (5) Charge a late fee, deferral fee, interest, or any other charge for failure to
6 repay outstanding proceeds, fees, voluntary tips, gratuities, or other donations.

7 (6) Condition the amount of proceeds a consumer is eligible to request or the
8 frequency with which a consumer is eligible to request proceeds on whether the
9 consumer pays fees, voluntary tips, gratuities, or other donations or on the size of
10 any fee, voluntary tip, gratuity, or donation.

11 (7) If he solicits or accepts voluntary tips, gratuities, or other donations,
12 mislead or deceive consumers about the voluntary nature of the tips, gratuities, or
13 other donations or make representations that tips, gratuities, or other donations will
14 benefit any specific individuals.

15 (8) Advertise, print, display, publish, distribute, broadcast or cause to be
16 advertised, printed, displayed, published, distributed, or broadcasted, in any manner,
17 any statement or representation with regard to the earned wage access services
18 offered by the provider that does either of the following:

19 (a) Is false, misleading, or deceptive.

20 (b) Omits material information that is necessary to make the statement or
21 representation not false, misleading, or deceptive.

22 §3591.5. Statutory compliance; applicability

23 A provider shall not deemed to be engaging in lending, a money
24 transmission, or a debt collection in this state or in violation of the laws of this state
25 relating to the payment of minimum or overtime wages, deductions from payroll,
26 salary, wages, compensation or other income, or the sale or assignment of, or an
27 order for earned but unpaid income, if that provider complies with the provisions of
28 R.S. 9:3591.3 and 3591.4.

1 §3591.6. Fee reporting; consumer protection

2 A. Notwithstanding any other provision of this Chapter, a provider that
3 charges a fee for the provision of earned wage access services, including transaction
4 fees, membership fees, or any other form of compensation, shall submit an annual
5 report to the Office of Financial Institutions. The report shall pertain to the preceding
6 calendar year and shall be submitted no later than March first of the following year.

7 All reports shall include the following information:

8 (1) Gross revenue attributable to its earned wage access services.

9 (2) The total number of transactions in which the provider provided proceeds
10 to consumers.

11 (3) The total number of unique consumers to whom the provider provided
12 proceeds.

13 (4) The total dollar amount of proceeds the provider provided to consumers.

14 (5) The total dollar amount of fees, voluntary tips, gratuities, or other
15 donations the provider received from consumers.

16 (6) The number and nature of consumer complaints received by the provider
17 and the resolution status of each complaint.

18 B. The Office of Financial Institutions shall make this data available to the
19 public in aggregated form in an annual report assessing the impact of earned wage
20 access services in the state by July first of each year.

21 C. Submission by providers of the annual report in Subsection A shall not be
22 deemed an action or transaction subject to the jurisdiction of the Office of Financial
23 Institutions.

24 §3591.7. Enforcement of this Chapter; penalties

25 A. Providers subject to the provisions of this Chapter shall be subject to
26 enforcement by the attorney general pursuant to the provisions of the Unfair Trade
27 Practices and Consumer Protection Law, R.S. 51:1401 et seq.

1 B. Any provider that fails to timely submit the required annual report as
 2 required by R.S. 51:3591.6 shall not be authorized to utilize the provisions of this
 3 Chapter.

4 C. If a provider fails to timely submit the annual report required by R.S.
 5 51:3591.6, any agreement made by that provider with a consumer for
 6 consumer-directed earned wage access services, credit agreements, promissory notes,
 7 or other contracts with a consumer shall be an absolute nullity.

8 Section 2. The first report required by R.S. 51:3591.6 as enacted by Section 1 of this
 9 Act shall be filed with the Office of Financial Institutions no later than March 1, 2027.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 368 Reengrossed

2025 Regular Session

St. Blanc

Abstract: Provides relative to earned wage access services and requires and prohibits certain acts relative to a provider of earned wage access services.

Proposed law provides that proposed law shall be known and may be cited as the "La. Earned Wage Access Services Act".

Proposed law defines consumer, consumer-directed earned wage access services, earned but unpaid income, earned wage access services, employer, employer-integrated earn wage access services, fee, outstanding proceeds, proceeds, and provider.

Proposed law requires a provider to:

- (1) Develop and implement policies and procedures for responding to questions raised by consumers and addressing complaints from consumers.
- (2) Before entering into an agreement with a consumer for the provision of earned wage access services, do all of the following:
 - (a) Inform the consumer of the consumer's rights under the agreement.
 - (b) Fully and clearly disclose to the consumer all provider-imposed fees or a schedule of fees associated with the provision of earned wage access services.
- (3) Inform the consumer of any material changes to the terms and conditions of the earned wage access services agreement before implementing those changes.
- (4) Allow the consumer to cancel use of the provider's earned wage access services at any time, without incurring a fee for that cancellation.

- (5) Whenever he offers a consumer the option to receive proceeds for a fee or solicits a tip, gratuity, or other donation, provide the consumer at least one reasonable option to obtain the same amount of proceeds at no cost and clearly explain how the consumer may select the no-cost option.
- (6) Comply with all applicable local, state, and federal privacy and information security laws.
- (7) Provide proceeds to a consumer via any means mutually agreed upon by the consumer and the provider.
- (8) If he seeks repayment of outstanding proceeds, fees, voluntary tips, gratuities, or other donations from a consumer's account at a depository institution, including via electronic transfer, do all of the following:
 - (a) Comply with applicable provisions of federal law.
 - (b) Reimburse the consumer for the full amount of any overdraft or non-sufficient funds fees imposed on that consumer by the consumer's depository institution, which were caused by the provider's attempt to seek payment of any outstanding proceeds, fees, voluntary tips, gratuities, or other donations on a date before, or in an incorrect amount from, the date or amount disclosed to the consumer. Proposed law shall not apply in situations where the customer incurred the aforementioned monetary amounts through fraudulent means.
- (9) If he solicits or receives a tip, gratuity, or donation from a consumer, do all of the following:
 - (a) Clearly and conspicuously disclose to the consumer immediately prior to each transaction that a tip, gratuity, or donation amount may be zero and is voluntary.
 - (b) Clearly and conspicuously disclose in the agreement with the consumer that tips, gratuities, or donations are voluntary and that the offering of earned wage access services, including the amount of proceeds a consumer is eligible to request and the frequency with which proceeds are provided to a consumer, is not contingent on whether the consumer pays any tip, gratuity, or donation or on the size of any tip, gratuity, or donation.

Proposed law prohibits a provider from:

- (1) Compelling or attempting to compel repayment by a consumer of outstanding proceeds, fees, voluntary tips, gratuities, or other donations through any of the following means:
 - (a) By initiating a civil suit against the consumer in a court of competent jurisdiction.
 - (b) By making unsolicited, outbound telephone calls.
 - (c) By using a third party to pursue the collection of outstanding proceeds or payments on the provider's behalf.
 - (d) By selling any outstanding amounts to a third-party debt collector or debt purchaser.

- (2) Sharing with an employer any fees, voluntary tips, gratuities, or other donations that were received from or charged to a consumer for earned wage access services.
- (3) Requiring a consumer's credit score from a credit report to determine a consumer's eligibility for earned wage access services.
- (4) Accepting payment from a consumer of outstanding proceeds, fees, voluntary tips, gratuities, or donations via credit card or charge card.
- (5) Charging a late fee, deferral fee, interest, or any other charge for failure to repay outstanding proceeds, fees, voluntary tips, gratuities, or other donations.
- (6) Conditioning the amount of proceeds a consumer is eligible to request or the frequency with which a consumer is eligible to request proceeds on whether the consumer pays fees, voluntary tips, gratuities, or other donations or on the size of any fee, voluntary tip, gratuity, or donation.
- (7) If he solicits or accepts voluntary tips, gratuities, or other donations, misleading or deceiving consumers about the voluntary nature of the tips, gratuities, or other donations or make representations that tips, gratuities, or other donations will benefit any specific individuals.
- (8) Advertising, printing, displaying, publishing, distributing, broadcasting or causing to be advertised, printed, displayed, published, distributed, or broadcasted, in any manner, any statement or representation with regard to the earned wage access services offered by the provider that is false, misleading, or deceptive or omits material information that is necessary to make the statement or representation not false, misleading, or deceptive.

Proposed law provides that the provider will not be considered as engaging in lending, a money transmission, or a debt collection in this state or in violation of the laws of this state relating to the payment of minimum or overtime wages, deductions from payroll, salary, wages, compensation or other income, or the sale or assignment of, or an order for earned but unpaid income, if the provider complies with the provisions of proposed law.

Proposed law requires providers that charge fees for earned wage access services to submit an annual report by March first to the Office of Financial Institutions including the following information for the preceding calendar year:

- (1) Gross revenue attributable to its earned wage access services.
- (2) The total number of transactions in which the provider provided proceeds to consumers.
- (3) The total number of unique consumers to whom the provider provided proceeds.
- (4) The total dollar amount of proceeds the provider provided to consumers.
- (5) The total dollar amount of fees, voluntary tips, gratuities, or other donations the provider received from consumers.
- (6) The number and nature of consumer complaints received by the provider and the resolution status of each complaint.

Proposed law requires the Office of Financial Institutions to make this data available to the public in aggregated form in an annual report no later than July first assessing the impact of earned wage access services in the state.

Proposed law establishes that providers subject to the provisions of proposed law shall be subject to enforcement by the attorney general pursuant to the provisions of the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401 et seq.

Proposed law requires that when a provider fails to timely submit the annual report required by proposed law, any agreement made by that provider with a consumer for consumer-directed earned wage access services, credit agreements, promissory notes, or other contracts with a consumer shall be an absolute nullity, and that provider shall not be authorized to utilize the provisions of proposed law.

Proposed law requires a provider to submit the first annual report to the Office of Financial Institutions no later than March 1, 2027.

(Adds R.S. 9:3591.1-3591.7)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Clarify the definition of "provider".
2. Prohibit providers from requiring a consumer's credit score from a credit report to determine a consumer's eligibility for earned wage access services.
3. Require providers that charge fees for earned wage access services to report certain data to the Office of Financial Institutions.
4. Require the Office of Financial Institutions to annually publish the reports from providers in aggregate form to the public.

The House Floor Amendments to the engrossed bill:

1. Prohibit providers from making or causing false or misleading statements about their services.
2. Modify the data sets that providers are required to report annually to the Office of Financial Institutions.
3. Require a provider under proposed law to make this report by March first of each year.
4. Require the Office of Financial Institutions to publish its annual report of aggregated earned wage access services data no later than July first of each year.
5. Provide for enforcement of proposed law by the attorney general pursuant to the provisions of the Unfair Trade Practices and Consumer Protection Law.
6. Require that when a provider fails to timely submit the annual report required by proposed law, any agreement made by that provider with a consumer for consumer-directed earned wage access services, credit agreements, promissory notes, or other contracts with a consumer shall be an absolute nullity, and that provider shall not be authorized to utilize the provisions of proposed law.
7. Require a provider to make its first annual report required by proposed law no later than March 1, 2027.