
DIGEST

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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.