
SUBSTITUTE SENATE BILL 5328

State of Washington

69th Legislature

2025 Regular Session

By Senate Business, Financial Services & Trade (originally sponsored by Senators Lovick, Dozier, and Nobles)

READ FIRST TIME 02/20/25.

1 AN ACT Relating to the licensing and regulation of businesses
2 providing earned wage access services; amending RCW 31.04.015 and
3 31.04.025; adding a new chapter to Title 31 RCW; and prescribing
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** This act may be known and cited as the
7 Washington state employer-integrated wage access services act.

8 NEW SECTION. **Sec. 2.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires
10 otherwise.

11 (1) "Consumer" means any individual who is a resident of or is
12 physically located in this state.

13 (2) "Consumer-directed wage access services" means any sum of
14 money advanced directly to a consumer of earned but unpaid income
15 that is based on the consumer's representations and the provider's
16 reasonable determination of the consumer's earned but unpaid income.

17 (3) "Department" means the department of financial institutions
18 as established under chapter 43.320 RCW.

19 (4) "Director" means the director of the department of financial
20 institutions.

1 (5) "Earned but unpaid income" means salary, wages, compensation,
2 or other income that an employer has represented, and that a provider
3 has reasonably determined, has been earned or has accrued to the
4 benefit of the consumer in exchange for the consumer's provision of
5 services to the employer or on behalf of the employer, including on
6 an hourly, project-based, piecework, or other basis and including
7 where the consumer is acting as an independent contractor of the
8 employer, but has not, at the time of the payment of proceeds, been
9 paid to the consumer by the employer.

10 (6) "Earned wage access services" means a financial service that
11 provides earned but unpaid income to a consumer.

12 (7) "Employer" means:

13 (a) A person who employs a consumer; or

14 (b) Any other person who is contractually obligated to pay a
15 consumer earned but unpaid income in exchange for a consumer's
16 provision of services to the employer or on behalf of the employer,
17 including on an hourly, project-based, piecework, or other basis and
18 including where the consumer is acting as an independent contractor
19 with respect to the employer. "Employer" does not mean a customer of
20 an employer or any other person whose obligation to make a payment of
21 salary, wages, compensation, or other income to a consumer is not
22 based on the provision of services by that consumer for or on behalf
23 of such person.

24 (8) "Employer-integrated wage access services" means any sum of
25 money advanced to a consumer based on earned but unpaid income that
26 is determined from employment, income, or attendance data obtained
27 from an employer of the consumer.

28 (9) "License" means a license issued under the authority of this
29 chapter.

30 (10) "Licensee" means any person, whether located within or
31 outside of this state, who is required to have a license under this
32 chapter.

33 (11) "Nationwide mortgage licensing system and registry" means a
34 licensing system developed and maintained by the conference of state
35 bank supervisors for licensing and registration.

36 (12) "Officer" means an official appointed by an employer-
37 integrated wage access services company for the purpose of making
38 business decisions or corporate decisions for the employer-integrated
39 wage access services company.

1 (13) "Outstanding proceeds" means a payment of proceeds to a
2 consumer by a provider that has not yet been repaid to that provider.

3 (14) "Person" means an individual, partnership, association,
4 limited liability company, limited liability partnership, trust,
5 corporation, and any other legal entity.

6 (15) "Principal" means any person who controls, directly or
7 indirectly through one or more intermediaries, alone or in concert
8 with others, a 10 percent or greater interest in a partnership,
9 company, association, corporation, or a limited liability company,
10 and is the owner of a sole proprietorship.

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

13 (17)(a) "Provider" means a person who is in the business of
14 providing or offering to provide employer-integrated wage access
15 services to consumers or holds himself or herself out as being able
16 to provide or offer to provide employer-integrated wage access
17 services.

18 (b) "Provider" does not include any of the following:

19 (i) A service provider, such as a payroll service provider, whose
20 role may include verifying the available earnings, but who is not
21 contractually obligated to fund proceeds delivered as part of an
22 earned wage access service; or

23 (ii) An employer that offers a portion of salary, wages, or
24 compensation directly to its employees or independent contractors
25 before the normally scheduled pay date.

26 NEW SECTION. **Sec. 3.** (1) All offers and provisions of employer-
27 integrated wage access services to a consumer by a provider, or
28 persons subject to this chapter, are subject to the authority and
29 restrictions of this chapter.

30 (2) Consumer-directed wage access services are subject to chapter
31 31.04 RCW.

32 (3) This chapter does not apply to banks, savings banks, trust
33 companies, savings and loan or building and loan associations, or
34 credit unions.

35 NEW SECTION. **Sec. 4.** (1) Beginning July 1, 2026, no person may
36 advertise, solicit, provide, or offer to provide employer-integrated
37 wage access services in this state without first obtaining and

1 maintaining a license in accordance with this chapter, except those
2 exempt under section 5 of this act.

3 (2) If a transaction violates subsection (1) of this section,
4 any:

5 (a) Fees, subscription fees, tips, gratuities, donations, and
6 voluntary contributions charged or received in connection with the
7 employer-integrated wage access services must be refunded to the
8 consumer; and

9 (b) Outstanding proceeds are null, void, uncollectable, and
10 unenforceable.

11 NEW SECTION. **Sec. 5.** (1) A person subject to this chapter shall
12 apply for a license required under this chapter by submitting an
13 application to the nationwide mortgage licensing system and registry
14 or in the form prescribed by the director. The application must
15 contain at least the following information:

16 (a) The name and the business addresses of the applicant;

17 (b) If the applicant is a partnership, limited liability company,
18 or association, the name of every member;

19 (c) If the applicant is a corporation, the name, residence
20 address, and telephone number of each officer and director;

21 (d) The street address, county, and municipality from which
22 business is to be conducted or a statement that the business is to be
23 conducted entirely online; and

24 (e) Such other information as the director may require by rule.

25 (2)(a) As part of or in connection with an application for any
26 license under this section, or periodically upon license renewal,
27 each officer, director, and principal applicant must furnish
28 identifying information, including:

29 (i) Fingerprints for submission to the Washington state patrol,
30 the federal bureau of investigation, or any governmental agency or
31 entity authorized to receive this information for a state and
32 national criminal history background check;

33 (ii) Personal history;

34 (iii) Experience;

35 (iv) Business record;

36 (v) Purposes; and

37 (vi) Other pertinent facts, as the director may reasonably
38 require.

1 (b) As part of or in connection with an application for a license
2 under this chapter, or periodically upon license renewal, the
3 director is authorized to receive criminal history record information
4 that includes nonconviction data as defined in RCW 10.97.030. The
5 department may only disseminate nonconviction data obtained under
6 this section to criminal justice agencies.

7 (3) At the time of filing an application for a license under this
8 chapter, each applicant shall pay to the director or through the
9 nationwide mortgage licensing system and registry an investigation
10 fee and the license fee in an amount determined by rule by the
11 director to be sufficient to cover the director's costs in
12 administering this chapter.

13 (4) Each applicant must file and maintain a surety bond in
14 accordance with section 6 of this act.

15 (5) The director may waive one or more requirements of this
16 section or permit an applicant to submit other information instead of
17 the required information.

18 NEW SECTION. **Sec. 6.** (1) Each licensee shall maintain a surety
19 bond in an amount based on the previous year's total dollar volume of
20 proceeds. The minimum surety bond must be at least \$50,000. The
21 director may adopt rules to implement this section.

22 (2) The bond must run to the state of Washington as obligee for
23 the use and benefit of the state and of any person or persons who may
24 have a cause of action against the obligor under this chapter. The
25 bond will pay to the state and any person or persons having a cause
26 of action against the obligor all moneys that may become due and
27 owing to the state and those persons under and by virtue of this
28 chapter.

29 (3) The bond must be continuous and may be canceled by the surety
30 upon the surety giving written notice to the director of its intent
31 to cancel the bond. The cancellation is effective 30 days after the
32 notice is received by the director or the director's designee.
33 Whether or not the bond is renewed, continued, replaced, or modified,
34 including increases or decreases in the penal sum, it is considered
35 one continuous obligation, and the surety upon the bond is not liable
36 in aggregate or cumulative amount exceeding the penal sum set forth
37 on the face of the bond. In no event may the penal sum, or any
38 portion thereof, at two or more points in time, be added together in
39 determining the surety's liability.

1 (4) The director may increase the amount of a bond required based
2 on the nature and volume of business activities, the financial health
3 of the company, and other criteria specified by the director in rule.

4 NEW SECTION. **Sec. 7.** (1) The director shall issue and deliver a
5 license to the applicant to offer and provide employer-integrated
6 wage access services in accordance with this chapter if, after
7 investigation, the director finds that:

8 (a) The applicant has paid all required fees;

9 (b) The applicant has submitted a complete application in
10 compliance with section 5 of this act;

11 (c) Neither the applicant nor its officers or principals have had
12 a license in this state or another state, revoked or suspended within
13 the last five years of the date of filing of the application;

14 (d) Neither the applicant nor any of its officers or principals
15 have been convicted of a gross misdemeanor involving dishonesty or
16 financial misconduct or a felony or a violation of the banking laws
17 of this state or of the United States within seven years of the
18 filing of an application;

19 (e) The applicant has demonstrated it can operate in a safe and
20 sound manner; and

21 (f) The financial responsibility, experience, character, and
22 general fitness of the applicant are such as to command the
23 confidence of the community and to warrant a belief that the business
24 will be operated honestly, fairly, and efficiently within the
25 purposes of this chapter.

26 (2) If the director does not find the conditions of subsection
27 (1) of this section have been met, the director shall not issue the
28 license. The director shall notify the applicant of the denial and
29 return to the applicant the bond posted and the sum paid by the
30 applicant as a license fee, retaining the investigation fee to cover
31 the costs of investigating the application.

32 (3) The director may, for good cause, condition the issuance of a
33 license.

34 (4) The director may waive one or more requirements of this
35 section or permit an applicant to submit other information in lieu of
36 the required information.

37 NEW SECTION. **Sec. 8.** A license under this chapter is not
38 transferable or assignable.

1 NEW SECTION. **Sec. 9.** A licensee shall, for each license held,
2 on or before the first day of each March, pay to the director an
3 annual assessment as determined by rule by the director. The licensee
4 is responsible for payment of the annual assessment for the previous
5 calendar year if the licensee had a license for any time during the
6 preceding calendar year, regardless of whether the licensee
7 surrendered the license during the calendar year or whether the
8 license was suspended or revoked. At the same time, the licensee
9 shall file with the director the required bond or otherwise
10 demonstrate compliance with section 6 of this act.

11 NEW SECTION. **Sec. 10.** (1) The director shall enforce all laws
12 and rules relating to the licensing and regulation of licensees and
13 persons subject to this chapter.

14 (2) The director may deny applications for licenses for:

15 (a) Failure of the applicant to demonstrate within its
16 application for a license that it meets the requirements for
17 licensing in sections 5 and 7 of this act;

18 (b) Violation of an order issued by the director under this
19 chapter or another chapter administered by the director including,
20 but not limited to, cease and desist orders and temporary cease and
21 desist orders;

22 (c) Revocation or suspension of a license by this state, another
23 state, or by the federal government within five years of the date of
24 submittal of a complete application for a license; or

25 (d) Filing an incomplete application when that incomplete
26 application has been filed with the department for 60 or more days,
27 if the director has given notice to the licensee that the application
28 is incomplete, informed the applicant why the application is
29 incomplete, and allowed at least 20 days for the applicant to
30 complete the application. The director may give notice through the
31 nationwide mortgage licensing system and registry.

32 (3) The director may condition, suspend, or revoke a license
33 issued under this chapter if the director finds that:

34 (a) The licensee has failed to pay any fee due to the state of
35 Washington, has failed to maintain in effect the bond or permitted
36 substitute required under this chapter, or has failed to comply with
37 any specific order or demand of the director lawfully made and
38 directed to the licensee in accordance with this chapter;

1 (b) The licensee violated any provision of this chapter or any
2 rule adopted under this chapter;

3 (c) A fact or condition exists that, if it had existed at the
4 time of the original application for the license, would have allowed
5 the director to deny the application for the original license;

6 (d) The licensee failed to comply with any directive, order, or
7 subpoena issued by the director under this chapter; or

8 (e) The licensee has operated in an unsafe or unsound manner.

9 (4) The director may impose fines of up to \$100 per day, per
10 violation, upon the licensee or other person subject to this chapter
11 for:

12 (a) Any violation of this chapter; or

13 (b) Failure to comply with any directive, order, or subpoena
14 issued by the director under this chapter.

15 (5) The director may issue an order directing the licensee or
16 other person subject to this chapter to:

17 (a) Cease and desist from conducting business in a manner that is
18 injurious to the public or violates any provision of this chapter;

19 (b) Take such affirmative action as is necessary to comply with
20 this chapter;

21 (c) Make a refund or restitution to a consumer who is damaged as
22 a result of a violation of this chapter; or

23 (d) Refund all fees, subscription fees, tips, gratuities,
24 donations, and voluntary contributions received through any violation
25 of this chapter.

26 (6) The director may issue an order removing from office or
27 prohibiting from participation in the affairs of any licensee, or
28 both, any officer, principal, or any person subject to this chapter
29 for:

30 (a) False statements or omission of material information from an
31 application for a license that, if known, would have allowed the
32 director to deny the original application for a license;

33 (b) Conviction of a gross misdemeanor involving dishonesty or
34 financial misconduct or a felony;

35 (c) Suspension or revocation of a license in this state or
36 another state;

37 (d) Failure to comply with any order or subpoena issued under
38 this chapter; or

39 (e) Failure to obtain a license for activity that requires a
40 license.

1 (7) Except to the extent prohibited by another statute, the
2 director may engage in informal settlement of complaints or
3 enforcement actions including, but not limited to, payment to the
4 department for purposes of financial literacy and education programs
5 authorized under RCW 43.320.150. If any person subject to this
6 chapter makes a payment to the department under this section, the
7 person may not advertise such payment.

8 (8) Whenever the director determines that the public is likely to
9 be substantially injured by delay in issuing a cease and desist
10 order, the director may immediately issue a temporary cease and
11 desist order. The order may direct the licensee to discontinue any
12 violation of this chapter, to take such affirmative action as is
13 necessary to comply with this chapter, and may include a summary
14 suspension of the licensee's license and may order the licensee to
15 immediately cease the conduct of business under this chapter. The
16 order applies at the time specified in the order. Every temporary
17 cease and desist order must include a provision that a hearing will
18 be held upon request to determine whether the order will become
19 permanent. Such hearing must be held within 14 days of receipt of a
20 request for a hearing unless otherwise specified in chapter 34.05
21 RCW.

22 (9) A licensee may surrender a license by delivering to the
23 director written notice of surrender, but the surrender does not
24 affect the licensee's civil or criminal liability, if any, for acts
25 committed before the surrender, including any administrative action
26 initiated by the director to suspend or revoke a license, impose
27 fines, compel the payment of restitution to borrowers or other
28 persons, or exercise any other authority under this chapter.
29 Surrender of a license applies upon approval by the director.

30 (10) The revocation, suspension, or surrender of a license does
31 not impair or affect the obligation of a preexisting lawful contract
32 between the licensee and a consumer.

33 (11) Every license issued under this chapter remains in force and
34 effect until it has been surrendered, revoked, expired, or suspended
35 in accordance with this chapter. However, the director may reinstate
36 suspended or expired licenses or issue new licenses to a licensee
37 whose license has been revoked if the director finds that the
38 licensee meets all the requirements of this chapter.

39 (12) A license issued under this chapter expires upon the
40 licensee's failure to comply with the annual assessment requirements

1 in section 9 of this act. The department must provide notice of the
2 expiration to the address of record provided by the licensee. On the
3 15th day after the department provides notice, if the assessment
4 remains unpaid, the license expires. The licensee must receive notice
5 prior to expiration and have the opportunity to stop the expiration
6 as set forth in rule.

7 NEW SECTION. **Sec. 11.** (1) A licensee may not charge to, or
8 receive from, a consumer more than \$5 per employer-integrated earned
9 wage advance transaction, and no more than \$10 total per calendar
10 month.

11 (2) The following moneys charged by or received from the
12 employer-integrated wage access services provider count towards the
13 limits in subsection (1) of this section:

- 14 (a) Transfer fees;
- 15 (b) Expedited transfer fees;
- 16 (c) Subscription fees; and
- 17 (d) Tips, gratuities, donations, voluntary contributions, and the
18 like.

19 (3) A licensee may continue to provide advances during the
20 remainder of the calendar month to the consumer but may not charge
21 additional moneys to, or receive additional moneys from, that
22 consumer.

23 NEW SECTION. **Sec. 12.** It is a violation of this chapter for a
24 licensee, its officers, board members, or any other person subject to
25 this chapter to:

26 (1) Directly or indirectly employ any scheme, device, or artifice
27 to defraud or mislead any person;

28 (2) Directly or indirectly engage in any unfair or deceptive act
29 or practice toward any person;

30 (3) Make, in any manner, any false or deceptive statement or
31 representation with regard to the employer-integrated wage access
32 services offered and provided by the licensee;

33 (4) Negligently make any false statement or knowingly and
34 willfully make any omission of material fact in connection with any
35 reports filed with the department by a licensee or in connection with
36 any investigation conducted by the department; or

37 (5) Violate any applicable state or federal law relating to the
38 activities governed by this chapter.

1 NEW SECTION. **Sec. 13.** The legislature finds that the practices
2 covered by this chapter are matters vitally affecting the public
3 interest for the purpose of applying the consumer protection act,
4 chapter 19.86 RCW. A violation of this chapter is not reasonable in
5 relation to the development and preservation of business and is an
6 unfair or deceptive act in trade or commerce and an unfair method of
7 competition for the purpose of applying the consumer protection act,
8 chapter 19.86 RCW.

9 NEW SECTION. **Sec. 14.** (1) No licensee may advertise, print,
10 display, publish, distribute, or broadcast or cause or permit to be
11 advertised, printed, displayed, published, distributed, or broadcast,
12 in any manner whatsoever, any statement or representation with regard
13 to the terms and conditions of employer-integrated wage access
14 services that is false, misleading, or deceptive.

15 (2) A licensee shall submit the data required by section 19 of
16 this act into the third-party database in a format prescribed by the
17 director.

18 NEW SECTION. **Sec. 15.** (1) The director or the director's
19 designee may apply for and obtain a superior court order approving
20 and authorizing a subpoena in advance of its issuance. The
21 application may be made in the county where the subpoenaed person
22 resides or is found, or the county where the subpoenaed documents,
23 records, or evidence are located, or in Thurston county. The
24 application must:

25 (a) State that an order is sought under this section;

26 (b) Adequately specify the documents, records, evidence, or
27 testimony; and

28 (c) Include a declaration made under oath that an investigation
29 is being conducted for a lawfully authorized purpose related to an
30 investigation within the department's authority and that the
31 subpoenaed documents, records, evidence, or testimony are reasonably
32 related to an investigation within the department's authority.

33 (2) When an application under this section is made to the
34 satisfaction of the court, the court must issue an order approving
35 the subpoena. An order under this subsection constitutes authority of
36 law for the agency to subpoena the documents, records, evidence, or
37 testimony.

1 (3) The director or the director's designee may seek approval and
2 a court may issue an order under this section without prior notice to
3 any person, including the person to whom the subpoena is directed and
4 the person who is the subject of an investigation. An application for
5 court approval is subject to the fee and process set forth in RCW
6 36.18.012(3).

7 NEW SECTION. **Sec. 16.** (1) For the purpose of discovering
8 violations of this chapter or securing information lawfully required
9 under this chapter, the director may at any time, either personally
10 or by designees, investigate or examine the business and, wherever
11 located, the books, accounts, records, papers, documents, files, and
12 other information used in the business of every licensee and of every
13 person subject to this chapter, whether the person acts or claims to
14 act as principal or agent, or under or without the authority of this
15 chapter. The director or designated representative:

16 (a) Must have free access to the employees, offices, and places
17 of business, books, accounts, papers, documents, other information,
18 records, files, safes, and vaults of all such persons during normal
19 business hours;

20 (b) May require the attendance of and examine under oath all
21 persons whose testimony may be required about the business or the
22 subject matter of any investigation, examination, or hearing and may
23 require such person to produce books, accounts, papers, records,
24 files, and any other information the director or the director's
25 designee deems relevant to the inquiry;

26 (c) May require by directive, subpoena, or any other lawful means
27 the production of original books, accounts, papers, records, files,
28 and other information; may require that such original books,
29 accounts, papers, records, files, and other information be copied; or
30 may make copies of such original books, accounts, papers, records,
31 files, or other information; and

32 (d) May issue a subpoena or subpoena duces tecum requiring
33 attendance by any person identified in this section or compelling
34 production of any books, accounts, papers, records, files, or other
35 documents or information identified in this section.

36 (2) The director must make such periodic examinations of the
37 affairs, business, office, and records of each licensee as determined
38 by rule.

1 (3) Every licensee examined or investigated by the director or
2 the director's designee must pay to the director the cost of the
3 examination or investigation of each licensed place of business as
4 determined by rule by the director.

5 (4) In order to carry out the purposes of this section, the
6 director may:

7 (a) Retain attorneys, accountants, or other professionals and
8 specialists as examiners, auditors, or investigators to conduct or
9 assist in the conduct of examinations or investigations;

10 (b) Enter into agreements or relationships with other government
11 officials or regulatory associations in order to improve efficiencies
12 and reduce regulatory burden by sharing resources, standardized or
13 uniform methods or procedures, and documents, records, information,
14 or evidence obtained under this section;

15 (c) Use, hire, contract, or employ public or privately available
16 analytical systems, methods, or software to examine or investigate
17 the licensee;

18 (d) Accept and rely on examination or investigation reports made
19 by other government officials, within or without this state;

20 (e) Accept audit reports made by an independent certified public
21 accountant for the licensee in the course of that part of the
22 examination covering the same general subject matter as the audit and
23 may incorporate the audit report in the report of the examination,
24 report of investigation, or other writing of the director; or

25 (f) Assess the licensee the cost of the services in (a) of this
26 subsection.

27 NEW SECTION. **Sec. 17.** (1) The licensee shall keep and use in
28 the business such books, accounts, records, papers, documents, files,
29 and other information as will enable the director to determine
30 whether the licensee is complying with this chapter and with the
31 rules adopted by the director under this chapter. The director shall
32 have free access to such books, accounts, records, papers, documents,
33 files, and other information wherever located. Every licensee shall
34 preserve the books, accounts, records, papers, documents, files, and
35 other information relevant to an employer-integrated earned wage
36 advance transaction for at least six years. No licensee or person
37 subject to examination or investigation under this chapter shall
38 withhold, abstract, remove, mutilate, destroy, or secrete any books,
39 accounts, records, papers, documents, files, or other information.

1 (2) Each licensee shall, on or before the first day of March of
2 each year, file a report with the director giving relevant
3 information as prescribed by the director concerning the employer-
4 integrated wage access services business and operations of each
5 licensee during the preceding calendar year.

6 (3) The report required in subsection (2) of this section must be
7 made under oath and must be in the form prescribed by the director,
8 who may make and publish annually an analysis and recapitulation of
9 the reports. Every licensee that fails to file the report required by
10 this chapter within the time required under this chapter is subject
11 to a penalty of \$50 per day for each day's delay. The attorney
12 general may bring a civil action in the name of the state for
13 recovery of any such penalty.

14 NEW SECTION. **Sec. 18.** Each licensee shall submit call reports
15 in the form and containing the information as prescribed by the
16 director.

17 NEW SECTION. **Sec. 19.** (1) The director has the power, and broad
18 administrative discretion, to administer and interpret this chapter
19 to facilitate the delivery of financial services to the citizens of
20 this state by persons subject to this chapter. The director shall
21 adopt all rules necessary to administer this chapter and to ensure
22 complete and full disclosure by licensees of employer-integrated
23 earned wage advance transactions governed by this chapter.

24 (2) If it appears to the director that a licensee is conducting
25 business in an injurious manner or is violating any provision of this
26 chapter, the director may order or direct the discontinuance of any
27 such injurious or illegal practice.

28 (3) For purposes of this section, "conducting business in an
29 injurious manner" means conducting business in a manner that violates
30 any provision of this chapter or that creates the reasonable
31 likelihood of a violation of any provision of this chapter.

32 (4) The director or the director's designee, with or without
33 prior administrative action, may bring an action in superior court to
34 enjoin the acts or practices that constitute violations of this
35 chapter and to enforce compliance with this chapter or any rule or
36 order made under this chapter. Upon proper showing, injunctive relief
37 or a temporary restraining order shall be granted. The director shall
38 not be required to post a bond in any court proceedings.

1 (5) The director shall implement a common database with real-time
2 access through an internet or application programming interface
3 connection for use by the department and any licensee entering into
4 an employer-integrated wage access services transaction in accordance
5 with this section; and either:

6 (a) Operate the database; or

7 (b) Contract with a third-party provider to operate the database.

8 (6) If the director contracts with a third-party provider for the
9 operation of the database, all of the following apply:

10 (a) The director shall ensure that the third-party provider
11 selected as the database provider operates the database pursuant to
12 the provisions of this section;

13 (b) The third-party provider shall use the data collected under
14 this chapter only as prescribed in this chapter and the contract with
15 the department and for no other purpose.

16 (7) The database must be accessible to licensees to:

17 (a) Submit each earned wage access services transaction into the
18 database;

19 (b) Verify whether entering into an earned wage access services
20 transaction with a particular consumer would be in violation of this
21 chapter; and

22 (c) Assist in submitting data under this chapter for annual
23 reporting requirements as outlined in this chapter.

24 (8) Before entering into an earned wage access services
25 transaction, a licensee shall submit the following data into the
26 database in a format prescribed by the director that includes:

27 (a) The consumer's name;

28 (b) The consumer's social security number or employment
29 authorization alien number;

30 (c) The consumer's address;

31 (d) The amount of the transaction;

32 (e) The date of the transaction;

33 (f) The date that the transaction closed; and

34 (g) Any additional information required by the director.

35 (9) The director shall impose a fee per transaction for data
36 required to be submitted for an earned wage access services
37 transaction. The fee in this subsection may not be charged for a no-
38 cost earned wage access services transaction.

39 (10) A licensee may rely on information contained in the database
40 as accurate and may not be subject to any administrative penalty or

1 civil liability due to reliance on inaccurate information contained
2 in the database.

3 (11) The director shall use the database to administer and
4 enforce this chapter.

5 (12) If the director contracts with a third party to operate the
6 database, the director shall require the database provider to file a
7 report containing the following information by July 31st of each
8 year:

9 (a) The total number and dollar amount of earned wage access
10 services transactions entered into in the previous calendar year
11 ending December 31st;

12 (b) The total dollar amount of the following collected for earned
13 wage access services transactions as of December 31st of the previous
14 year:

15 (i) Fees; and

16 (ii) Tips, donations, and other amounts paid voluntarily;

17 (c) As of December 31st of the previous year, the following per
18 consumer:

19 (i) The average earned wage access services transaction amount;

20 (ii) The average number of transactions; and

21 (iii) The average aggregate earned wage access services
22 transaction amount entered into;

23 (d) The average number of days a consumer was engaged in an
24 earned wage access services transaction for the previous year;

25 (e) An estimate of the average total amount of the following paid
26 per consumer for earned wage access services transactions for the
27 previous year:

28 (i) Fees; and

29 (ii) Tips, donations, and other amounts paid voluntarily;

30 (f) The total number of unique consumers that entered into an
31 earned wage access services transaction for the previous year; and

32 (g) Any other information required by the director.

33 (13) The director may adopt rules to administer this section and
34 ensure that the database is used by licensees in accordance with this
35 section.

36 (14) A provider licensed under this chapter offering earned wage
37 access services transactions may use the information found in the
38 database to assist with filing the report outlined in this section
39 with the department.

1 NEW SECTION. **Sec. 20.** (1) The director shall establish fees by
2 rule sufficient to cover the costs of administering this chapter.
3 These fees may include:

4 (a) An annual assessment specified in rule by the director paid
5 by each licensee on or before the annual assessment due date;

6 (b) A late fee or late payment of the annual assessment as
7 specified in rule by the director;

8 (c) An hourly fee to cover the costs of any examination or
9 investigation of the books and records of a licensee or other person
10 subject to this chapter;

11 (d) A nonrefundable application fee to cover the costs of
12 processing licensing applications made to the director under this
13 chapter;

14 (e) An initial fee to cover the period from the date of licensure
15 to the end of the calendar year in which the license is initially
16 granted; and

17 (f) A transaction fee or set of transaction fees to cover the
18 administrative costs associated with processing administrative
19 changes as specified in rule by the director.

20 (2) The director shall ensure that when an examination or
21 investigation, or any part of the examination or investigation, of
22 any licensee, applicant, or person subject to licensing under this
23 chapter, requires travel and services outside this state by the
24 director or designee, the licensee, applicant, or person subject to
25 licensing under this chapter that is the subject of the examination
26 or investigation shall pay the actual travel expenses incurred by the
27 director or designee conducting the examination or investigation.

28 (3) All money, fees, and penalties collected under this chapter
29 shall be deposited into the financial services regulation account.

30 (4) The director or designee may waive all or a portion of the
31 fees and assessments under this chapter.

32 NEW SECTION. **Sec. 21.** If the licensee is an individual, the
33 department shall immediately suspend the license of a person who has
34 been certified pursuant to RCW 74.20A.320 by the department of social
35 and health services as a person who is not in compliance with a
36 support order. If the person has continued to meet all other
37 requirements for reinstatement during the suspension, reissuance of
38 the license is automatic upon the department's receipt of a release

1 issued by the department of social and health services stating that
2 the licensee is in compliance with the order.

3 NEW SECTION. **Sec. 22.** (1) A person who violates, or knowingly
4 aids or abets in the violation of any provision of this chapter, for
5 which no penalty has been prescribed, and a person who fails to
6 perform any act that is the person's duty to perform under this
7 chapter and for which no penalty has been prescribed for failure to
8 do so, is guilty of a gross misdemeanor.

9 (2) No provision imposing civil penalties or criminal liability
10 under this chapter or rule adopted under this chapter applies to an
11 act taken or omission made in good faith in conformity with a written
12 notice, interpretation, or examination report of the director or the
13 director's designee.

14 NEW SECTION. **Sec. 23.** The proceedings for denying license
15 applications, issuing cease and desist orders, suspending or revoking
16 licenses, and imposing civil penalties or other remedies under this
17 chapter, and any review or appeal of such action, shall be governed
18 by the provisions of the administrative procedure act, chapter 34.05
19 RCW.

20 NEW SECTION. **Sec. 24.** (1) The director or the director's
21 designee may, at their discretion, take such action as provided for
22 in this chapter to enforce this chapter. If the person subject to
23 such action does not appear in person or by counsel at the time and
24 place designated for any administrative hearing that may be held on
25 the action, then the person is deemed to consent to the action. If
26 the person subject to the action consents, or if after hearing the
27 director finds by a preponderance of the evidence that any grounds
28 for sanctions under this chapter exist, then the director may impose
29 any sanction authorized by this chapter.

30 (2) The director may recover the state's costs and expenses for
31 prosecuting violations of this chapter including staff time spent
32 preparing for and attending administrative hearings and reasonable
33 attorneys' fees unless, after a hearing, the director determines no
34 violation occurred.

35 **Sec. 25.** RCW 31.04.015 and 2018 c 62 s 9 are each amended to
36 read as follows:

1 The definitions set forth in this section apply throughout this
2 chapter unless the context clearly requires a different meaning.

3 (1) "Add-on method" means the method of precomputing interest
4 payable on a loan whereby the interest to be earned is added to the
5 principal balance and the total plus any charges allowed under this
6 chapter is stated as the loan amount, without further provision for
7 the payment of interest except for failure to pay according to loan
8 terms. The director may adopt by rule a more detailed explanation of
9 the meaning and use of this method.

10 (2) "Affiliate" means any person who, directly or indirectly
11 through one or more intermediaries, controls, or is controlled by, or
12 is under common control with another person.

13 (3) "Applicant" means a person applying for a license under this
14 chapter.

15 (4) "Borrower" means any person who consults with or retains a
16 licensee or person subject to this chapter in an effort to obtain, or
17 who seeks information about obtaining a loan, regardless of whether
18 that person actually obtains such a loan. "Borrower" includes a
19 person who consults with or retains a licensee or person subject to
20 this chapter in an effort to obtain, or who seeks information about
21 obtaining a residential mortgage loan modification, regardless of
22 whether that person actually obtains a residential mortgage loan
23 modification.

24 (5) "Department" means the state department of financial
25 institutions.

26 (6) "Depository institution" has the same meaning as in section 3
27 of the federal deposit insurance act on July 26, 2009, and includes
28 credit unions.

29 (7) "Director" means the director of financial institutions.

30 (8) "Educational institution" means any entity that is a degree-
31 granting institution as defined in RCW 28B.85.010, a private
32 vocational school as defined in RCW 28C.10.020, or school as defined
33 in RCW 18.16.020.

34 (9) "Federal banking agencies" means the board of governors of
35 the federal reserve system, comptroller of the currency, director of
36 the office of thrift supervision, national credit union
37 administration, and federal deposit insurance corporation.

38 (10) "Individual servicing a mortgage loan" means a person on
39 behalf of a lender or servicer licensed by this state, who collects
40 or receives payments including payments of principal, interest,

1 escrow amounts, and other amounts due, on existing obligations due
2 and owing to the licensed lender or servicer for a residential
3 mortgage loan when the borrower is in default, or in reasonably
4 foreseeable likelihood of default, working with the borrower and the
5 licensed lender or servicer, collects data and makes decisions
6 necessary to modify either temporarily or permanently certain terms
7 of those obligations, or otherwise finalizing collection through the
8 foreclosure process.

9 (11) "Insurance" means life insurance, disability insurance,
10 property insurance, involuntary unemployment insurance, and such
11 other insurance as may be authorized by the insurance commissioner.

12 (12) "License" means a single license issued under the authority
13 of this chapter.

14 (13) "Licensee" means a person to whom one or more licenses have
15 been issued. "Licensee" also means any person, whether located within
16 or outside of this state, who fails to obtain a license required by
17 this chapter.

18 (14) "Loan" means a sum of money lent at interest or for a fee or
19 other charge and includes both open-end and closed-end loan
20 transactions. "Loan" also includes consumer-directed wage access
21 services, as defined in section 2 of this act.

22 (15) "Loan processor or underwriter" means an individual who
23 performs clerical or support duties as an employee at the direction
24 of and subject to the supervision and instruction of a person
25 licensed, or exempt from licensing, under this chapter.

26 (16) "Making a loan" means advancing, offering to advance, or
27 making a commitment to advance funds to a borrower for a loan.

28 (17) "Mortgage broker" means the same as defined in RCW
29 19.146.010, except that for purposes of this chapter, a licensee or
30 person subject to this chapter cannot receive compensation as both a
31 consumer loan licensee making the loan and as a consumer loan
32 licensee acting as the mortgage broker in the same loan transaction.

33 (18)(a) "Mortgage loan originator" means an individual who for
34 compensation or gain (i) takes a residential mortgage loan
35 application, or (ii) offers or negotiates terms of a residential
36 mortgage loan. "Mortgage loan originator" also includes individuals
37 who hold themselves out to the public as able to perform any of these
38 activities. "Mortgage loan originator" does not include any
39 individual who performs purely administrative or clerical tasks; and
40 does not include a person or entity solely involved in extensions of

1 credit relating to timeshare plans, as that term is defined in
2 section 101(53D) of Title 11, United States Code. For the purposes of
3 this definition, administrative or clerical tasks means the receipt,
4 collection, and distribution of information common for the processing
5 of a loan in the mortgage industry and communication with a consumer
6 to obtain information necessary for the processing of a residential
7 mortgage loan.

8 (b) "Mortgage loan originator" also includes an individual who
9 for direct or indirect compensation or gain performs residential
10 mortgage loan modification services or holds himself or herself out
11 as being able to perform residential mortgage loan modification
12 services.

13 (c) "Mortgage loan originator" does not include a person or
14 entity that only performs real estate brokerage activities and is
15 licensed or registered in accordance with applicable state law,
16 unless the person or entity is compensated by a lender, a mortgage
17 broker, or other mortgage loan originator or by any agent of such a
18 lender, mortgage broker, or other mortgage loan originator. For the
19 purposes of chapter 120, Laws of 2009, the term "real estate
20 brokerage activity" means any activity that involves offering or
21 providing real estate brokerage services to the public, including:

22 (i) Acting as a real estate agent or real estate broker for a
23 buyer, seller, lessor, or lessee of real property;

24 (ii) Bringing together parties interested in the sale, purchase,
25 lease, rental, or exchange of real property;

26 (iii) Negotiating, on behalf of any party, any portion of a
27 contract relating to the sale, purchase, lease, rental, or exchange
28 of real property, other than in connection with providing financing
29 with respect to such a transaction;

30 (iv) Engaging in any activity for which a person engaged in the
31 activity is required to be registered or licensed as a real estate
32 agent or real estate broker under any applicable law; and

33 (v) Offering to engage in any activity, or act in any capacity,
34 described in (c)(i) through (iv) of this subsection.

35 (d) This subsection does not apply to employees of a housing
36 counseling agency approved by the United States department of housing
37 and urban development unless the employees of a housing counseling
38 agency are required under federal law to be individually licensed as
39 mortgage loan originators.

1 (19) "Nationwide mortgage licensing system" means a licensing
2 system developed and maintained by the conference of state bank
3 supervisors for licensing and registration.

4 (20) "Officer" means an official appointed by the company for the
5 purpose of making business decisions or corporate decisions.

6 (21) "Person" includes individuals, partnerships, associations,
7 limited liability companies, limited liability partnerships, trusts,
8 corporations, and all other legal entities.

9 (22) "Principal" means any person who controls, directly or
10 indirectly through one or more intermediaries, alone or in concert
11 with others, a ten percent or greater interest in a partnership;
12 company; association or corporation; or a limited liability company,
13 and the owner of a sole proprietorship.

14 (23) "Registered mortgage loan originator" means any individual
15 who meets the definition of mortgage loan originator and is an
16 employee of a depository institution; a subsidiary that is owned and
17 controlled by a depository institution and regulated by a federal
18 banking agency; or an institution regulated by the farm credit
19 administration and is registered with, and maintains a unique
20 identifier through, the nationwide mortgage licensing system.

21 (24) "Residential mortgage loan" means any loan primarily for
22 personal, family, or household use that is secured by a mortgage,
23 deed of trust, or other consensual security interest on a dwelling,
24 as defined in the truth in lending act, or residential real estate
25 upon which is constructed or intended to be constructed a dwelling.

26 (25) "Residential mortgage loan modification" means a change in
27 one or more of a residential mortgage loan's terms or conditions.
28 Changes to a residential mortgage loan's terms or conditions include
29 but are not limited to forbearances; repayment plans; changes in
30 interest rates, loan terms, or loan types; capitalizations of
31 arrearages; or principal reductions.

32 (26) "Residential mortgage loan modification services" includes
33 negotiating, attempting to negotiate, arranging, attempting to
34 arrange, or otherwise offering to perform a residential mortgage loan
35 modification for compensation or gain. "Residential mortgage loan
36 modification services" also includes the collection of data for
37 submission to an entity performing mortgage loan modification
38 services.

1 (27) "S.A.F.E. act" means the secure and fair enforcement for
2 mortgage licensing act of 2008, Title V of the housing and economic
3 recovery act of 2008 ("HERA"), P.L. 110-289, effective July 30, 2008.

4 (28) "Senior officer" means an officer of a licensee at the vice
5 president level or above.

6 (29) "Service or servicing a loan" means on behalf of the lender
7 or investor of a residential mortgage loan: (a) Collecting or
8 receiving payments on existing obligations due and owing to the
9 lender or investor, including payments of principal, interest, escrow
10 amounts, and other amounts due; (b) collecting fees due to the
11 servicer; (c) working with the borrower and the licensed lender or
12 servicer to collect data and make decisions necessary to modify
13 certain terms of those obligations either temporarily or permanently;
14 (d) otherwise finalizing collection through the foreclosure process;
15 or (e) servicing a reverse mortgage loan.

16 (30) "Service or servicing a reverse mortgage loan" means,
17 pursuant to an agreement with the owner of a reverse mortgage loan:
18 Calculating, collecting, or receiving payments of interest or other
19 amounts due; administering advances to the borrower; and providing
20 account statements to the borrower or lender.

21 (31) "Simple interest method" means the method of computing
22 interest payable on a loan by applying the annual percentage interest
23 rate or its periodic equivalent to the unpaid balances of the
24 principal of the loan outstanding for the time outstanding.

25 (a) On a nonresidential loan each payment is applied first to any
26 unpaid penalties, fees, or charges, then to accumulated interest, and
27 the remainder of the payment applied to the unpaid balance of the
28 principal until paid in full. In using such method, interest must not
29 be payable in advance nor compounded. The prohibition on compounding
30 interest does not apply to reverse mortgage loans made in accordance
31 with the Washington state reverse mortgage act. The director may
32 adopt by rule a more detailed explanation of the meaning and use of
33 this method.

34 (b) On a residential mortgage loan payments are applied as
35 determined in the security instrument.

36 (32) "Student education loan" means any loan solely for personal
37 use to finance postsecondary education and costs of attendance at an
38 educational institution. A student education loan includes a loan
39 made to refinance a student education loan. A student education loan
40 does not include a payment plan or accounts receivable at a higher

1 education institution as defined in RCW 28B.07.020(4) only during the
2 time of a student's enrollment in the higher education institution,
3 not to include a refinanced payment plan or accounts receivable, an
4 extension of credit under an open-end consumer credit plan, a reverse
5 mortgage transaction, a residential mortgage transaction, or any
6 other loan that is secured by real property or a dwelling.

7 (33) "Student education loan borrower" means: (a) Any resident of
8 this state who has received or agreed to pay a student education
9 loan; or (b) any person who shares responsibility with such resident
10 for repaying the student education loan.

11 (34) "Student education loan servicer" means any person, wherever
12 located, responsible for the servicing of any student education loan
13 to any student education loan borrower.

14 (35) "Student education loan servicing" or "service a student
15 education loan" means: (a) Receiving any scheduled periodic payments
16 from a student education loan borrower pursuant to the terms of a
17 student education loan; (b) applying the payments of principal and
18 interest and such other payments with respect to the amounts received
19 from a student education loan borrower, as may be required pursuant
20 to the terms of a student education loan; (c) working with the
21 student education loan borrower to collect data, or collecting data,
22 to make decisions to modify the loan; or (d) performing other
23 administrative services with respect to a student education loan
24 including collection activities. "Student education loan servicing"
25 does not include third-party student education loan modification
26 services.

27 (36) "Third-party residential mortgage loan modification
28 services" means residential mortgage loan modification services
29 offered or performed by any person other than the owner or servicer
30 of the loan.

31 (37) "Third-party service provider" means any person other than
32 the licensee or a mortgage broker who provides goods or services to
33 the licensee or borrower in connection with the preparation of the
34 borrower's loan and includes, but is not limited to, credit reporting
35 agencies, real estate brokers or salespersons, title insurance
36 companies and agents, appraisers, structural and pest inspectors, or
37 escrow companies.

38 (38) "Third-party student education loan modification services"
39 means for compensation or other consideration by or on behalf of the
40 borrower working with the student education loan borrower or his or

1 her representative to collect data or prepare or submit documents, or
2 collecting data and preparing or submitting documents, to modify,
3 refinance, or consolidate the loan, or change repayment plans.

4 (39) "Unique identifier" means a number or other identifier
5 assigned by protocols established by the nationwide mortgage
6 licensing system.

7 **Sec. 26.** RCW 31.04.025 and 2024 c 249 s 2 are each amended to
8 read as follows:

9 (1) Each loan made to a resident of or a person physically
10 located in this state by a licensee, or persons subject to this
11 chapter, is subject to the authority and restrictions of this
12 chapter.

13 (2) A person may not engage in any device, subterfuge, or
14 pretense to evade the requirements of this chapter including, but not
15 limited to: Making loans disguised as personal property sale and
16 leaseback transactions; disguising loan proceeds as a cash rebate for
17 the pretextual installment sale of goods or services; or making,
18 offering, assisting, or arranging a debtor to obtain a loan with a
19 greater rate of interest, consideration, or charge than permitted by
20 this chapter through any method, including mail, telephone, internet,
21 or any electronic means regardless of whether the person has a
22 physical location in the state.

23 (3) If a loan exceeds the rate permitted under this chapter, a
24 person is a lender making a loan subject to the requirements of this
25 chapter notwithstanding the fact that the person purports to act as
26 an agent, service provider, or in another capacity for another person
27 that is exempt from this chapter, if, among other things:

28 (a) The person holds, acquires, or maintains, directly or
29 indirectly, the predominant economic interest in the loan; or

30 (b) The totality of the circumstances indicate that the person is
31 the lender, and the transaction is structured to evade the
32 requirements of this chapter.

33 (4) This chapter does not apply to the following:

34 (a) Any person doing business under, and as permitted by, any law
35 of this state or of the United States relating to banks, savings
36 banks, trust companies, savings and loan or building and loan
37 associations, or credit unions;

38 (b) Any person making loans under chapter 19.60 RCW
39 (pawnbroking);

1 (c) Any person conducting transactions under chapter 63.14 RCW
2 (retail installment sales of goods and services), unless credit is
3 extended to purchase merchandise certificates, coupons, open or
4 closed loop stored value, or other similar items issued and
5 redeemable by a retail seller other than the retail seller extending
6 the credit;

7 (d) Any person making loans under chapter 31.45 RCW (check
8 cashers and sellers);

9 (e) Any person making a loan primarily for business, commercial,
10 or agricultural purposes unless the loan is secured by a lien on the
11 borrower's primary dwelling;

12 (f) Any person selling property owned by that person who provides
13 financing for the sale when the property does not contain a dwelling
14 and when the property serves as security for the financing. This
15 exemption is available for five or fewer transactions in a calendar
16 year. This exemption is not available to individuals subject to the
17 federal S.A.F.E. act or any person in the business of constructing or
18 acting as a contractor for the construction of residential dwellings;

19 (g) Any person making loans made to government or government
20 agencies or instrumentalities or making loans to organizations as
21 defined in the federal truth in lending act;

22 (h) Any person making loans under chapter 43.185A RCW (housing
23 trust fund);

24 (i) Any person making loans under programs of the United States
25 department of agriculture, department of housing and urban
26 development, or other federal government program that provides
27 funding or access to funding for single-family housing developments
28 or grants to low-income individuals for the purchase or repair of
29 single-family housing;

30 (j) Nonprofit housing organizations making loans, or loans made,
31 under housing programs that are funded in whole or in part by federal
32 or state programs if the primary purpose of the programs is to assist
33 low-income borrowers with purchasing or repairing housing or the
34 development of housing for low-income Washington state residents;

35 (k) Any person making loans which are not residential mortgage
36 loans under a credit card plan;

37 (l) Individuals employed by a licensed residential mortgage loan
38 servicing company engaging in activities related to servicing, unless
39 licensing is required by federal law or regulation; ((and))

1 (m) Any person licensed under chapter 18.44 RCW that
2 (~~process[es]~~) processes payments on seller-financed loans secured
3 by liens on real or personal property; (~~and~~)

4 (n) Any person that extends money or credit to another person on
5 a nonrecourse basis in exchange for a contingent right to receive an
6 amount of the potential proceeds of any award, judgment, settlement,
7 verdict, or other resolution from a pending legal action. This
8 exemption does not apply to any person that requires repayment in the
9 event the person does not prevail in their civil proceeding; and

10 (o) Any person making employer-integrated wage access services
11 pursuant to chapter 31.-- RCW (the new chapter created in section 27
12 of this act).

13 (5) The director may, at his or her discretion, waive
14 applicability of the consumer loan company licensing provisions of
15 this chapter to other persons, not including individuals subject to
16 the S.A.F.E. act, making or servicing loans when the director
17 determines it necessary to facilitate commerce and protect consumers.

18 (6) The burden of proving the application for an exemption or
19 exception from a definition, or a preemption of a provision of this
20 chapter, is upon the person claiming the exemption, exception, or
21 preemption.

22 (7) The director may adopt rules interpreting this section.

23 NEW SECTION. Sec. 27. Sections 1 through 24 of this act
24 constitute a new chapter in Title 31 RCW.

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