
SENATE BILL 5328

State of Washington

69th Legislature

2025 Regular Session

By Senators Lovick, Dozier, and Nobles

Read first time 01/17/25. Referred to Committee on Business,
Financial Services & Trade.

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

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

5 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
6 section apply throughout this chapter unless the context clearly
7 requires otherwise.

8 (1) "Consumer" means any individual who resides in this state. A
9 provider may use the mailing address or state of residence provided
10 by a consumer to determine the consumer's state of residence for
11 purposes of this chapter.

12 (2) "Consumer-directed wage access services" means offering or
13 providing an advance of earned but unpaid income directly to
14 consumers based on the consumer's representations and the provider's
15 reasonable determination of the consumer's earned but unpaid income.

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

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

20 (5) "Earned but unpaid income" means salary, wages, compensation,
21 or other income that a consumer or an employer has represented, and

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

8 (6) "Earned wage access services" means the business of providing
9 consumer-directed wage access services, employer-integrated wage
10 access services, or both.

11 (7) "Employer" means:

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

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

23 (8) "Employer-integrated wage access services" means the business
24 of delivering to consumers access to earned but unpaid income that is
25 based on employment, income, or attendance data obtained directly or
26 indirectly from an employer.

27 (9) "Fee" includes:

28 (a) A fee imposed by a provider for delivery or expedited
29 delivery of proceeds to a consumer;

30 (b) A subscription or membership fee imposed by a provider for a
31 bona fide group of services that includes earned wage access
32 services; or

33 (c) An amount paid by an employer to a provider on a consumer's
34 behalf, which entitles the consumer to receive proceeds at a reduced
35 fee or no cost to the consumer.

36 (10) "License" means a license issued under the authority of this
37 chapter.

38 (11) "Licensee" means a person to whom one or more licenses have
39 been issued.

1 (12) "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 (13) "Officer" means an official appointed by an earned wage
5 access services company for the purpose of making business decisions
6 or corporate decisions for the earned wage access services company.

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

9 (15) "Person" means an individual, partnership, association,
10 limited liability company, limited liability partnership, trust,
11 corporation, and any other legal entity.

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

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

19 (18) "Provider" means:

20 (a) A person who is in the business of offering and providing
21 earned wage access services to consumers.

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

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

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

30 NEW SECTION. **Sec. 2.** APPLICATION OF CHAPTER. (1) All offers and
31 provisions of earned wage access services to a consumer by a
32 provider, or persons subject to this chapter, are subject to the
33 authority and restrictions of this chapter.

34 (2) This chapter does not apply to any person doing business
35 under, and as permitted by, any law of this state or of the United
36 States relating to banks, savings banks, trust companies, savings and
37 loan or building and loan associations, or credit unions.

1 NEW SECTION. **Sec. 3.** LICENSE REQUIRED. Beginning July 1, 2026,
2 no person may offer or provide earned wage access services in this
3 state without first obtaining and maintaining a license in accordance
4 with this chapter, except those exempt under section 2 of this act.

5 NEW SECTION. **Sec. 4.** LICENSE—APPLICATION—BACKGROUND CHECKS—
6 FEE—SURETY BOND. (1) A person subject to this chapter shall apply for
7 a license required under this chapter by submitting an application to
8 the nationwide mortgage licensing system and registry or in the form
9 prescribed by the director. The application must contain at least the
10 following information:

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

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

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

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

19 (e) Other information that the director may require by rule.

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

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

28 (ii) Personal history;

29 (iii) Experience;

30 (iv) Business record;

31 (v) Purposes; and

32 (vi) Other pertinent facts, as the director may reasonably
33 require.

34 (b) As part of or in connection with an application for a license
35 under this chapter, or periodically upon license renewal, the
36 director may receive criminal history record information that
37 includes nonconviction data as defined in RCW 10.97.030. The
38 department may only disseminate nonconviction data obtained under
39 this section to criminal justice agencies.

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

7 (4) Each applicant must file and maintain a surety bond, approved
8 by the director, executed by the applicant as obligor and by a surety
9 company authorized to do a surety business in this state as surety,
10 whose liability as such surety must not exceed in the aggregate the
11 penal sum of the bond. The penal sum of the bond must be a minimum of
12 \$30,000. The bond must run to the state of Washington as obligee for
13 the use and benefit of the state and of any person or persons who may
14 have a cause of action against the obligor under this chapter. The
15 bond must be conditioned that the obligor as licensee will faithfully
16 conform to and abide by this chapter and all the rules adopted under
17 this chapter. The bond must pay to the state and any person or
18 persons having a cause of action against the obligor all moneys that
19 may become due and owing to the state and those persons under this
20 chapter. The bond must be continuous and may be canceled by the
21 surety upon the surety giving written notice to the director of its
22 intent to cancel the bond. The cancellation applies 45 days after the
23 notice is received by the director. Instead of a surety bond, if the
24 applicant is a Washington business corporation, the applicant may
25 maintain unimpaired capital, surplus, and long-term subordinated debt
26 in an amount that at any time its outstanding promissory notes or
27 other evidences of debt, other than long-term subordinated debt, in
28 an aggregate sum do not exceed three times the aggregate amount of
29 its unimpaired capital, surplus, and long-term subordinated debt. The
30 director may define qualifying "long-term subordinated debt" for
31 purposes of this section.

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

35 NEW SECTION. **Sec. 5.** LICENSE—DIRECTOR'S DUTIES. (1) The
36 director shall issue and deliver a license to the applicant to offer
37 and provide earned wage access services in accordance with this
38 chapter if, after investigation, the director finds that:

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

1 (b) The applicant has submitted a complete application in
2 compliance with section 4 of this act;

3 (c) Neither the applicant nor its officers or principals have had
4 a license issued under this section or any other section, in this
5 state or another state, revoked or suspended within the last five
6 years of the date of filing of the application;

7 (d) Neither the applicant nor any of its officers or principals
8 have been convicted of a gross misdemeanor involving dishonesty or
9 financial misconduct or a felony or a violation of the banking laws
10 of this state or of the United States within seven years of the
11 filing of an application; and

12 (e) The financial responsibility, experience, character, and
13 general fitness of the applicant are such as to command the
14 confidence of the community and to warrant a belief that the business
15 will be operated honestly, fairly, and efficiently within the
16 purposes of this chapter.

17 (2) If the director does not find the conditions of subsection
18 (1) of this section have been met, the director may not issue the
19 license. The director shall notify the applicant of the denial and
20 return to the applicant the bond posted and the sum paid by the
21 applicant as a license fee, retaining the investigation fee to cover
22 the costs of investigating the application. The director shall
23 approve or deny every application for license under this chapter
24 within 90 days from the filing of a complete application with the
25 fees and the approved bond.

26 NEW SECTION. **Sec. 6.** LICENSE—INFORMATION CONTAINED. (1) The
27 license must display the following information:

28 (a) The address at which the business is to be conducted or
29 whether the business is to be conducted entirely online;

30 (b) The full name of the licensee, and, if the licensee is a
31 copartnership or association, the names of its members; and

32 (c) If the licensee is a corporation, the date and place of its
33 incorporation.

34 (2) The license is not transferable or assignable.

35 NEW SECTION. **Sec. 7.** LICENSEE—ASSESSMENT—BOND TIME—TIME OF
36 PAYMENT. A licensee shall, for each license held, on or before the
37 first day of each March, pay to the director an annual assessment as
38 determined by rule by the director. The licensee is responsible for

1 payment of the annual assessment for the previous calendar year if
2 the licensee had a license for any time during the preceding calendar
3 year, regardless of whether they surrendered their license during the
4 calendar year or whether their license was suspended or revoked. At
5 the same time, the licensee shall file with the director the required
6 bond or otherwise demonstrate compliance with section 4 of this act.

7 NEW SECTION. **Sec. 8.** LICENSING—APPLICATIONS—REGULATION OF
8 LICENSEES—DIRECTOR'S DUTIES AND AUTHORITY—FINES—ORDERS—STATUTE OF
9 LIMITATIONS. (1) The director shall enforce all laws and rules
10 relating to the licensing and regulation of licensees and persons
11 subject to this chapter.

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

13 (a) Failure of the applicant to demonstrate within its
14 application for a license that it meets the requirements for
15 licensing in sections 4 and 5 of this act;

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

20 (c) Revocation or suspension of a license to offer or provide
21 earned wage access services by this state, another state, or by the
22 federal government within five years of the date of submittal of a
23 complete application for a license; or

24 (d) Filing an incomplete application when that incomplete
25 application has been filed with the department for 60 or more days,
26 provided that the director has given notice to the licensee that the
27 application is incomplete, informed the applicant why the application
28 is incomplete, and allowed at least 20 days for the applicant to
29 complete the application.

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

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

37 (b) The licensee, either knowingly or without the exercise of due
38 care, has violated any provision of this chapter or any rule adopted
39 under this chapter;

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

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

7 (4) The director may condition, revoke, or suspend the license
8 with respect to which grounds for conditioning, revocation, or
9 suspension may occur or exist.

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

13 (a) Any violation of this chapter; or

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

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

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

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

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

24 (d) Refund all fees received through any violation of this
25 chapter.

26 (7) 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 to offer or provide
36 earned wage access services in this state or 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 (8) 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 (9) 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 becomes effective at the time specified in the order. Every
17 temporary cease and desist order must include a provision that a
18 hearing must be held upon request to determine whether the order will
19 become permanent. Such hearing must be held within 14 days of receipt
20 of a request for a hearing unless otherwise specified in chapter
21 34.05 RCW.

22 (10) 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. The
29 statute of limitations on actions not subject to RCW 4.16.160 that
30 are brought under this chapter by the director is five years.

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

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

1 (13) A license issued under this chapter expires upon the
2 licensee's failure to comply with the annual assessment requirements
3 in section 7 of this act. The department must provide notice of the
4 expiration to the address of record provided by the licensee. On the
5 15th day after the department provides notice, if the assessment
6 remains unpaid, the license expires. The licensee must receive notice
7 before expiration and have the opportunity to stop the expiration as
8 set forth in rule.

9 NEW SECTION. **Sec. 9.** LICENSEE'S OBLIGATIONS. A person required
10 to be licensed under this chapter shall comply with the following
11 requirements:

12 (1) Develop and implement policies and procedures to respond to
13 questions raised by consumers and address complaints from consumers
14 in an expedient manner;

15 (2) Whenever a provider offers a consumer the option to receive
16 proceeds for a fee, offer that consumer at least one reasonable
17 option to obtain proceeds at no cost and clearly explain how to elect
18 that no-cost option;

19 (3) Before entering into an agreement with a consumer for the
20 provision of earned wage access services, do both of the following:

21 (a) Inform the consumer of their rights under the agreement;

22 (b) Fully and clearly disclose all fees associated with the
23 earned wage access services; and

24 (c) Inform the consumer of the services and fees associated with
25 subscriptions or memberships that are not provided for in section
26 10(4) of this act;

27 (4) Inform the consumer of any material changes to the terms and
28 conditions of the earned wage access services before implementing
29 those changes for that consumer;

30 (5) Allow the consumer to cancel use of the licensee's earned
31 wage access services at any time, without incurring a cancellation
32 fee imposed by the licensee;

33 (6) Comply with all applicable local, state, and federal privacy
34 and information security laws;

35 (7) If a licensee solicits, charges, or receives a tip, gratuity,
36 or other donation from a consumer, the licensee shall do both of the
37 following:

1 (a) Clearly and conspicuously disclose to the consumer
2 immediately before each transaction that a tip, gratuity, or other
3 donation amount may be zero and is voluntary; and

4 (b) Clearly and conspicuously disclose in its service contract
5 with the consumer and elsewhere that tips, gratuities, or donations
6 are voluntary and that the offering of earned wage access services,
7 including the amount of proceeds a consumer is eligible to request
8 and the frequency with which proceeds are provided to a consumer, is
9 not contingent on whether the consumer pays any tip, gratuity, or
10 other donation or on the size of the tip, gratuity, or other
11 donation;

12 (8) Provide proceeds to a consumer by any means mutually agreed
13 upon by the consumer and the licensee;

14 (9) If the licensee will seek repayment of outstanding proceeds
15 or payment of fees or other amounts owed, including voluntary tips,
16 gratuities, or other donations, in connection with the activities
17 covered by this chapter, from a consumer's depository institution,
18 including by means of electronic funds transfer, the licensee shall
19 do both of the following:

20 (a) Comply with applicable provisions of the federal electronic
21 funds transfer act, 15 U.S.C. Sec. 1693 et seq., and regulations
22 adopted under that act; and

23 (b) Reimburse the consumer for the full amount of any overdraft
24 or nonsufficient funds fees imposed on a consumer by the consumer's
25 depository institution that were caused by the licensee attempting to
26 seek payment of any outstanding proceeds, fees, or other payments, in
27 connection with the activities covered by this chapter, including
28 voluntary tips, gratuities, or other donations, on a date before, or
29 in an incorrect amount from, the date or amount disclosed to the
30 consumer. However, the licensee is not subject to the requirements of
31 this subsection with respect to payments of outstanding amounts or
32 fees incurred by a consumer through fraudulent or other unlawful
33 means.

34 NEW SECTION. **Sec. 10.** PROHIBITED ACTS BY LICENSEES. A person
35 required to be licensed under this chapter may not do any of the
36 following:

37 (1) Share with an employer a portion of any fees, voluntary tips,
38 gratuities, or other donations that were received from or charged to
39 a consumer for earned wage access services;

1 (2) Require a consumer's credit report or a credit score provided
2 or issued by a consumer reporting agency to determine a consumer's
3 eligibility for earned wage access services;

4 (3) Accept payment of outstanding proceeds, fees, voluntary tips,
5 gratuities, or other donations from a consumer by means of a credit
6 card or charge card;

7 (4) Charge a fee for delivery or expedited delivery in excess of
8 \$7.00 per earned wage access services transaction;

9 (5) Charge a late fee, deferral fee, interest, or any other
10 penalty or charge for failure to pay outstanding proceeds, fees,
11 voluntary tips, gratuities, or other donations;

12 (6) Report to a consumer reporting agency or debt collector any
13 information about the consumer regarding the inability of the
14 provider to be repaid outstanding proceeds, fees, voluntary tips,
15 gratuities, or other donations;

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

19 (i) Use of unsolicited outbound telephone calls;

20 (ii) A suit against the consumer in a court of competent
21 jurisdiction;

22 (iii) Use of a third party to pursue collection from the consumer
23 on the provider's behalf; or

24 (iv) Sale of outstanding amounts to a third-party collector or
25 debt buyer for collection from the consumer.

26 (b) This subsection (7) does not preclude the use by a licensee
27 of any of the foregoing methods to compel payment of outstanding
28 amounts or fees incurred by a consumer through fraudulent or other
29 unlawful means, nor does this subsection preclude a licensee from
30 pursuing an employer for breach of its contractual obligations to the
31 licensee;

32 (8) If the provider solicits, charges, or receives tips,
33 gratuities, or other donations from a consumer, do any of the
34 following:

35 (a) Mislead or deceive consumers about the voluntary nature of
36 the tips, gratuities, or donations;

37 (b) Make representations that tips, gratuities, or other
38 donations will benefit any specific individuals; or

39 (c) Present such voluntary payments as a default option to the
40 consumer.

1 NEW SECTION. **Sec. 11.** VIOLATIONS. It is a violation of this
2 chapter for a licensee, its officers, board members, or any other
3 person subject to this chapter to:

4 (1) Directly or indirectly employ any scheme, device, or artifice
5 to defraud or mislead any consumer;

6 (2) Directly or indirectly engage in any unfair or deceptive
7 practice toward any consumer;

8 (3) Make, in any manner, any false or deceptive statement or
9 representation with regard to the earned wage access services offered
10 and provided by the licensee;

11 (4) Negligently make any false statement or knowingly and
12 willfully make any omission of material fact in connection with any
13 reports filed with the department by a licensee or in connection with
14 any investigation conducted by the department; or

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

17 NEW SECTION. **Sec. 12.** ADVERTISEMENTS OR PROMOTIONS. A licensee
18 may not advertise, print, display, publish, distribute, or broadcast
19 or cause or permit to be advertised, printed, displayed, published,
20 distributed, or broadcast, in any manner whatsoever, any statement or
21 representation with regard to the terms and conditions of earned wage
22 access services that is false, misleading, or deceptive.

23 NEW SECTION. **Sec. 13.** SUBPOENA AUTHORITY—APPLICATION—CONTENTS
24 —NOTICE—FEES. (1) The director or authorized assistants may apply
25 for and obtain a superior court order approving and authorizing a
26 subpoena in advance of its issuance. The application may be made in
27 the county where the subpoenaed person resides or is found, or the
28 county where the subpoenaed documents, records, or evidence are
29 located, or in Thurston county. The application must:

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

31 (b) Adequately specify the documents, records, evidence, or
32 testimony; and

33 (c) Include a declaration made under oath that an investigation
34 is being conducted for a lawfully authorized purpose related to an
35 investigation within the department's authority and that the
36 subpoenaed documents, records, evidence, or testimony are reasonably
37 related to an investigation within the department's authority.

1 (2) When an application under this section is made to the
2 satisfaction of the court, the court must issue an order approving
3 the subpoena. An order under this subsection constitutes authority of
4 law for the agency to subpoena the documents, records, evidence, or
5 testimony.

6 (3) The director or authorized assistants may seek approval and a
7 court may issue an order under this section without prior notice to
8 any person, including the person to whom the subpoena is directed and
9 the person who is the subject of an investigation. An application for
10 court approval is subject to the fee and process set forth in RCW
11 36.18.012(3).

12 NEW SECTION. **Sec. 14.** INVESTIGATIONS AND EXAMINATIONS—

13 DIRECTOR'S DUTIES AND POWERS—PRODUCTION OF INFORMATION—COSTS. (1)
14 For the purpose of discovering violations of this chapter or securing
15 information lawfully required under this chapter, the director may at
16 any time, either personally or by designees, investigate or examine
17 the business and, wherever located, the books, accounts, records,
18 papers, documents, files, and other information used in the business
19 of every licensee and of every person subject to this chapter,
20 whether the person acts or claims to act as principal or agent, or
21 under or without the authority of this chapter. The director or
22 designated representative:

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

27 (b) May require the attendance of and examine under oath all
28 persons whose testimony may be required about the business or the
29 subject matter of any investigation, examination, or hearing and may
30 require such persons to produce books, accounts, papers, records,
31 files, and any other information the director or designated persons
32 deem relevant to the inquiry;

33 (c) May require by directive, subpoena, or any other lawful means
34 the production of original books, accounts, papers, records, files,
35 and other information; may require that such original books,
36 accounts, papers, records, files, and other information be copied; or
37 may make copies of such original books, accounts, papers, records,
38 files, or other information; and

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

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

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

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

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

17 (b) Enter into agreements or relationships with other government
18 officials or regulatory associations in order to improve efficiencies
19 and reduce regulatory burden by sharing resources, standardized or
20 uniform methods or procedures, and documents, records, information,
21 or evidence obtained under this section;

22 (c) Use, hire, contract, or employ public or privately available
23 analytical systems, methods, or software to examine or investigate
24 the licensee;

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

27 (e) Accept audit reports made by an independent certified public
28 accountant for the licensee in the course of that part of the
29 examination covering the same general subject matter as the audit and
30 may incorporate the audit report in the report of the examination,
31 report of investigation, or other writing of the director; or

32 (f) Assess the licensee the cost of the services in (a) of this
33 subsection.

34 NEW SECTION. **Sec. 15.** LICENSEE—RECORDKEEPING—DIRECTOR'S ACCESS
35 —REPORT REQUIREMENT—FAILURE TO REPORT. (1) The licensee shall keep
36 and use in the business such books, accounts, records, papers,
37 documents, files, and other information as will enable the director
38 to determine whether the licensee is complying with this chapter and
39 with the rules adopted by the director under this chapter. The

1 director shall have free access to such books, accounts, records,
2 papers, documents, files, and other information wherever located.
3 Every licensee shall preserve the books, accounts, records, papers,
4 documents, files, and other information relevant to an earned wage
5 access services transaction for at least three years. A licensee or
6 person subject to examination or investigation under this chapter may
7 not withhold, abstract, remove, mutilate, destroy, or secrete any
8 books, accounts, records, papers, documents, files, or other
9 information.

10 (2) Each licensee shall, on or before the first day of July of
11 each year, file a report with the director giving relevant
12 information concerning the earned wage access services business and
13 operations of each licensee during the preceding calendar year,
14 including all of the following information:

15 (a) Gross revenue attributable to those earned wage access
16 services;

17 (b) The total number of transactions in which the licensee
18 provided proceeds to consumers;

19 (c) The total number of unique consumers to whom the licensee
20 provided proceeds;

21 (d) The total dollar amount of proceeds the licensee provided to
22 consumers;

23 (e) The total dollar amount of fees, voluntary tips, gratuities,
24 or other donations the licensee received from consumers;

25 (f) The total number of transactions in which the proceeds were
26 provided to consumers for which the provider did not receive
27 repayment of any outstanding proceeds;

28 (g) The total dollar amount of transactions described under (f)
29 of this subsection;

30 (h) The total number of transactions in which proceeds were
31 provided to consumers for which the licensee received partial
32 repayment of outstanding proceeds;

33 (i) The total dollar amount of transactions described under (h)
34 of this subsection and the total dollar amount of unpaid outstanding
35 proceeds attributable to those transactions;

36 (j) The total number of transactions in which outstanding
37 proceeds were repaid after the original scheduled repayment date; and

38 (k) The total dollar amount of transactions described under (j)
39 of this subsection.

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

8 NEW SECTION. **Sec. 16.** DIRECTOR—BROAD ADMINISTRATIVE DISCRETION
9 —RULE MAKING—ACTIONS IN SUPERIOR COURT. (1) The director has the
10 power, and broad administrative discretion, to administer and
11 interpret this chapter to facilitate the delivery of earned wage
12 access services to the citizens of this state by persons subject to
13 this chapter. The director shall adopt all rules necessary to
14 administer this chapter and to ensure complete and full disclosure by
15 licensees of earned wage access services transactions governed by
16 this chapter.

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

21 (3) The director or designated persons, with or without prior
22 administrative action, may bring an action in superior court to
23 enjoin the acts or practices that constitute violations of this
24 chapter and to enforce compliance with this chapter or any rule or
25 order made under this chapter. Upon proper showing, injunctive relief
26 or a temporary restraining order must be granted. The director shall
27 not be required to post a bond in any court proceedings.

28 (4) 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 NEW SECTION. **Sec. 17.** VIOLATION—NO PENALTY PRESCRIBED—GROSS
33 MISDEMEANOR—GOOD FAITH EXCEPTION. (1) A person who violates, or
34 knowingly aids or abets in the violation of any provision of this
35 chapter, for which no penalty has been prescribed, and a person who
36 fails to perform any act that is the person's duty to perform under

1 this chapter and for which no penalty has been prescribed for failure
2 to do so, is guilty of a gross misdemeanor.

3 (2) A provision imposing civil penalties or criminal liability
4 under this chapter or rule adopted under this chapter does not apply
5 to an act taken or omission made in good faith in conformity with a
6 written notice, interpretation, or examination report of the director
7 or the director's agent.

8 NEW SECTION. **Sec. 18.** APPLICABILITY. (1) Notwithstanding any
9 other provision of law, earned wage access services offered and
10 provided by a licensee in accordance with this chapter may not be
11 considered to be any of the following:

12 (a) A violation of or noncompliance with any law of this state
13 governing deductions from wages or the purchase, sale or assignment
14 of, or an order for, earned but unpaid income;

15 (b) A loan or other form of credit or debt, nor shall the
16 provider be considered a creditor, credit grantor, credit service
17 business, debt collector, or lender with respect thereto; or

18 (c) Money transmission, nor shall the provider be considered a
19 money transmitter for purposes of any law of this state.

20 (2) Notwithstanding any other provision of law, fees, voluntary
21 tips, gratuities, or other donations paid by a consumer to a licensee
22 in accordance with this chapter shall not be considered interest or
23 finance charges. If there is a conflict between the provisions of
24 this chapter and any other statute, the provisions of this chapter
25 control.

26 NEW SECTION. **Sec. 19.** APPLICATION OF ADMINISTRATIVE PROCEDURE
27 ACT. The proceedings for denying license applications, issuing cease
28 and desist orders, suspending or revoking licenses, and imposing
29 civil penalties or other remedies under this chapter, and any review
30 or appeal of such action, are governed by the provisions of the
31 administrative procedure act, chapter 34.05 RCW.

32 NEW SECTION. **Sec. 20.** ENFORCEMENT OF CHAPTER—DIRECTOR'S
33 DISCRETION—HEARING—SANCTIONS—RECOVERY OF COSTS. (1) The director or
34 designated persons may, at their discretion, take such action as
35 provided for in this chapter to enforce this chapter. If the person
36 subject to such action does not appear in person or by counsel at the
37 time and place designated for any administrative hearing that may be

1 held on the action, then the person is deemed to consent to the
2 action. If the person subject to the action consents, or if after
3 hearing the director finds by a preponderance of the evidence that
4 any grounds for sanctions under this chapter exist, then the director
5 may impose any sanction authorized by this chapter.

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

11 NEW SECTION. **Sec. 21.** SHORT TITLE. This chapter may be known
12 and cited as the Washington state earned wage access services act.

13 NEW SECTION. **Sec. 22.** Sections 1 through 21 of this act
14 constitute a new chapter in Title 31 RCW.

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