

By Senator Trumbull

2-01118-24

20241146\_\_

1                   A bill to be entitled  
2           An act relating to earned wage access providers;  
3           creating part V of ch. 560, F.S., entitled "Florida  
4           Earned Wage Access Services Act"; creating s. 560.409,  
5           F.S.; providing a short title; creating s. 560.410,  
6           F.S.; defining terms; creating s. 560.411, F.S.;  
7           defining terms; requiring providers of earned wage  
8           access services to register with the Financial  
9           Services Commission; specifying the information that  
10          must be included with the application; requiring the  
11          commission to issue a proof of registration to  
12          qualified applicants; requiring that the registration  
13          or the registration number, as applicable, be  
14          displayed in a specified manner; requiring that  
15          registrations be renewed biennially; authorizing the  
16          commission to extend the expiration date of a  
17          registration for a specified purpose; prohibiting  
18          assignment of a registration and the conduct of  
19          business under more than one name; authorizing the  
20          commission to deny, refuse to renew, or revoke a  
21          registration for specified reasons; requiring the  
22          commission to deny or refuse to renew a registration  
23          under certain circumstances; creating s. 560.412,  
24          F.S.; providing requirements for registered providers;  
25          prohibiting certain activities on the part of  
26          registered providers; providing construction;  
27          authorizing providers to use a mailing address  
28          provided by a consumer to determine a consumer's state  
29          of residence; creating s. 560.413, F.S.; providing

2-01118-24

20241146\_\_

30 applicability; creating s. 560.414, F.S.; authorizing  
31 the commission to issue orders imposing certain  
32 actions or penalties for violations, including  
33 imposition of administrative fines; authorizing the  
34 commission to adopt rules; requiring the commission to  
35 adopt an application for registration; authorizing  
36 certain providers to operate without registration for  
37 a specified timeframe after the effective date of this  
38 act under certain conditions; providing an effective  
39 date.

40  
41 Be It Enacted by the Legislature of the State of Florida:

42  
43 Section 1. Part V of chapter 560, Florida Statutes,  
44 consisting of sections 560.409 through 560.414, Florida  
45 Statutes, is created to read:

46  
47 PART V

48  
49 FLORIDA EARNED WAGE ACCESS SERVICES ACT

50  
51 560.409 Short title.—This part shall be known as the  
52 “Florida Earned Wage Access Services Act.”

53 560.410 Definitions.—As used in this part, the term:

54 (1) “Business entity” means any corporation, limited  
55 liability company, partnership, association, or other commercial  
56 entity.

57 (2) “Commission” means the Financial Services Commission.

58 (3) “Consumer” means an individual who resides in this

2-01118-24

20241146\_\_

59 state.

60 (4) "Consumer-directed earned wage access services" means  
61 the business of delivering to consumers access to earned but  
62 unpaid income that is based on the consumer's representations  
63 and the provider's reasonable determination of the consumer's  
64 earned but unpaid income.

65 (5) "Earned but unpaid income" means salary, wages,  
66 compensation, or other income that a consumer or an employer has  
67 represented, and that a provider has reasonably determined, has  
68 been earned or accrued to the benefit of the consumer in  
69 exchange for the consumer's provision of services to the  
70 employer or on behalf of the employer, including on an hourly,  
71 project-based, piecework, or other basis and including  
72 circumstances in which the consumer is acting as an independent  
73 contractor of the employer, but has not, at the time of the  
74 payment of proceeds, been paid to the consumer by the employer.

75 (6) "Earned wage access service" means the business of  
76 providing consumer-directed earned wage access services or  
77 employer-integrated earned wage access services, or both.

78 (7) "Employer" means a person or an entity that employs a  
79 consumer or any other person who is contractually obligated to  
80 pay a consumer earned but unpaid income in exchange for the  
81 consumer's provision of services to the employer or on behalf of  
82 the employer, including on an hourly, project-based, piecework,  
83 or other basis and including circumstances in which the consumer  
84 is acting as an independent contractor with respect to the  
85 employer. The term does not include a customer of an employer,  
86 or any other person whose obligation to make a payment of  
87 salary, wages, compensation, or other income to a consumer is

2-01118-24

20241146\_\_

88 not based on the provision of services by that consumer for or  
89 on behalf of the person.

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

94 (9) "Fee" includes a fee imposed by a provider for delivery  
95 or expedited delivery of proceeds to a consumer or a  
96 subscription or a membership fee imposed by a provider for a  
97 bona fide group of services that includes earned wage access  
98 services; however, the term does not include a voluntary tip,  
99 gratuity, or other donation.

100 (10) "Outstanding proceeds" means proceeds remitted to a  
101 consumer by a provider which have not yet been repaid to the  
102 provider.

103 (11) "Proceeds" means a payment to a consumer by a provider  
104 which is based on earned but unpaid income.

105 (12) "Provider" means a business entity that is in the  
106 business of providing earned wage access services to consumers;  
107 however, the term does not include either of the following:

108 (a) A service provider, such as a payroll service provider,  
109 whose role may include verifying the available earnings but  
110 which is not contractually obligated to fund proceeds delivered  
111 as part of an earned wage access service.

112 (b) An employer that offers a portion of salary, wages, or  
113 compensation directly to its employees or independent  
114 contractors before the normally scheduled pay date.

115 (13) "Registrant" means a business entity registered with  
116 the commission under s. 561.02(1) as an earned wage access

2-01118-24

20241146\_\_

117 services provider.

118 560.411 Registration.—

119 (1) For the purposes of this section, the term:

120 (a) "Applicant" means a provider that has submitted an  
121 application for a certificate of registration under subsection  
122 (2).

123 (b) "Director" means a member of the applicant's or  
124 registrant's board of directors. For purposes of this paragraph,  
125 the term "member" means a person who has the right to receive  
126 upon dissolution, or has contributed, 10 percent or more of the  
127 capital of an applicant or registrant that is organized as a  
128 limited liability company.

129 (c) "Key officer" includes the chief executive officer, the  
130 chief financial officer, and the chief compliance officer.

131 (d) "Partner" means a person that has the right to receive  
132 upon dissolution, or has contributed, 10 percent or more of the  
133 capital of an applicant or a registrant that is organized as a  
134 partnership.

135 (2) Each provider shall register with the commission. An  
136 applicant must provide its legal business and trade name,  
137 mailing address, business locations, and the full names and  
138 addresses of its partners, members, or directors and key  
139 officers, and the Florida agent of the corporation; must state  
140 whether it is a domestic or a foreign corporation; must provide  
141 its state and date of incorporation, its charter number, and, if  
142 it is a foreign corporation, the date it registered with the  
143 Department of State; and, if the provider is operating under a  
144 fictitious or trade name, must provide the date on which it  
145 registered its fictitious name.

2-01118-24

20241146\_\_

146       (3) A certificate evidencing proof of registration must be  
147 issued by the commission and must be prominently displayed at  
148 the provider's primary place of business; however, if the  
149 provider conducts business on a website, the provider must post  
150 its registration number on its website.

151       (4) A registration must be renewed biennially on or before  
152 its expiration date. In order to establish staggered expiration  
153 dates, the commission may extend the expiration date of a  
154 registration for a period not to exceed 12 months.

155       (5) A registration issued under this chapter is not  
156 assignable, and the provider may not conduct business under more  
157 than one name except as registered. A provider desiring to  
158 change its registered name, location, or designated agent for  
159 service of process at a time other than upon renewal of  
160 registration must notify the commission of the change.

161       (6) The commission may deny, refuse to renew, or revoke the  
162 registration of a provider based upon a determination that any  
163 of the following criteria applies to the provider, or any of the  
164 provider's partners, members, or directors and key officers:

165       (a) Has failed to meet the requirements for registration as  
166 provided in this chapter.

167       (b) Has been convicted of a crime involving fraud,  
168 dishonest dealing, or any other act of moral turpitude.

169       (c) Has not satisfied a civil fine or penalty arising out  
170 of an administrative or enforcement action brought by a  
171 governmental agency or a private person based upon conduct  
172 involving fraud, dishonest dealing, or any violation of this  
173 chapter.

174       (d) Has pending against it any criminal, administrative, or

2-01118-24

20241146\_\_

175 enforcement proceedings in any jurisdiction, based upon conduct  
176 involving fraud, dishonest dealing, or any other act of moral  
177 turpitude.

178 (e) Has had a judgment entered against it in any action  
179 brought by the commission or the Department of Legal Affairs  
180 under this chapter or the Florida Deceptive and Unfair Trade  
181 Practices Act.

182 (7) The commission shall deny or refuse to renew the  
183 registration of a provider or deny a registration or renewal  
184 request by any of the provider's partners, members, or directors  
185 and key officers if such entities have not satisfied a civil  
186 penalty or administrative fine for a violation of s. 560.412.

187 560.412 Provider requirements; limitations.—

188 (1) A provider required to register under s. 560.411(2)  
189 shall do all of the following:

190 (a) Develop and implement policies and procedures to  
191 respond to questions raised by consumers and address complaints  
192 from consumers in an expedient manner.

193 (b) Offer to the consumer at least one reasonable option to  
194 obtain proceeds at no cost to the consumer and clearly explain  
195 how to elect the no-cost option.

196 (c) Before entering into an agreement with a consumer for  
197 the provision of earned wage access services:

198 1. Inform the consumer of his or her rights under the  
199 agreement; and

200 2. Fully and clearly disclose all fees associated with the  
201 earned wage access services.

202 (d) Inform the consumer of any material changes to the  
203 terms and conditions of providing the earned wage access

2-01118-24

20241146\_\_

204 services before applying those changes to that consumer.

205 (e) Allow the consumer to cancel use of the provider's  
206 earned wage access services at any time, without incurring a  
207 cancellation fee or penalty imposed by the provider. If the  
208 consumer has initiated an advance of proceeds, the provider may  
209 require the effective date of the cancellation to be after the  
210 consumer has satisfied any repayment obligation the consumer has  
211 to the provider, either through payroll deduction, preauthorized  
212 electronic funds transfer from a consumer's account or  
213 depository institution, or other means previously agreed to by  
214 the consumer and the provider. This paragraph does not require a  
215 provider to allow a consumer-initiated advance to be canceled,  
216 revoked, suspended, or reversed after the consumer initiates the  
217 advance.

218 (f) Comply with all applicable local, state, and federal  
219 privacy and information security laws.

220 (g) If the provider solicits, charges, or receives a tip,  
221 gratuity, or other donation from a consumer:

222 1. Disclose, clearly and conspicuously, to the consumer  
223 immediately before each transaction that a tip, gratuity, or  
224 other donation amount may be zero and is voluntary; and

225 2. Disclose, clearly and conspicuously, in the service  
226 contract with the consumer that tips, gratuities, and donations  
227 are voluntary and that the offering of earned wage access  
228 services, including the amount of proceeds a consumer is  
229 eligible to request and the frequency with which proceeds are  
230 provided to a consumer, is not contingent on whether the  
231 consumer pays any tip, gratuity, or other donation or on the  
232 size of a tip, gratuity, or other donation.



2-01118-24

20241146\_\_

233 (h) Provide proceeds to a consumer by any means mutually  
234 agreed upon by the consumer and the provider.

235 (i) If the provider will seek repayment of outstanding  
236 proceeds or payment of fees or other amounts owed, including  
237 voluntary tips, gratuities, or other donations, in connection  
238 with the activities covered by this chapter, from a consumer's  
239 depository institution, including by means of electronic funds  
240 transfer:

241 1. Comply with applicable provisions of the Electronic Fund  
242 Transfer Act, 15 U.S.C. s. 1693, and regulations adopted under  
243 the act; and

244 2. Reimburse the consumer for the full amount of any  
245 overdraft or insufficient funds fees imposed on the consumer by  
246 the consumer's depository institution which were caused by the  
247 provider attempting to seek payment of any outstanding proceeds,  
248 fees, or other payments in connection with the activities  
249 covered by this chapter, including voluntary tips, gratuities,  
250 or other donations, on a date before, or in an incorrect amount  
251 from, the date or amount disclosed to the consumer. However, the  
252 provider is not subject to the requirements in this subparagraph  
253 with respect to payments of outstanding amounts or fees incurred  
254 by a consumer through fraudulent or other unlawful means.

255 (2) A provider required to register under s. 560.411(2) may  
256 not do any of the following:

257 (a) Share with an employer a portion of any fees, voluntary  
258 tips, gratuities, or other donations that were received from or  
259 charged to a consumer for earned wage access services.

260 (b) Require a consumer's credit report or a credit score  
261 provided or issued by a consumer reporting agency to determine a

2-01118-24

20241146\_\_

262 consumer's eligibility for earned wage access services.

263 (c) Accept payment of outstanding proceeds, fees, voluntary  
264 tips, gratuities, or other donations from a consumer by means of  
265 a credit card or charge card.

266 (d) Charge a late fee, deferral fee, interest, or any other  
267 penalty or fee for failure to pay outstanding proceeds, fees,  
268 voluntary tips, gratuities, or other donations.

269 (e) Report to a consumer reporting agency or debt collector  
270 any information about the consumer regarding the inability of  
271 the consumer to pay outstanding proceeds, fees, voluntary tips,  
272 gratuities, or other donations.

273 (f) Compel or attempt to compel payment by a consumer of  
274 outstanding proceeds, fees, voluntary tips, gratuities, or other  
275 donations to the provider through any of the following means:

276 1. A suit against the consumer in a court of competent  
277 jurisdiction.

278 2. Use of a third party to pursue collection from the  
279 consumer on the provider's behalf.

280 3. Sale of outstanding amounts to a third-party collector  
281 or debt buyer for collection from the consumer.

282  
283 The prohibition imposed in this paragraph does not preclude the  
284 use by a provider of any of the methods specified in this  
285 paragraph to compel payment of outstanding amounts or fees  
286 incurred by a consumer through fraudulent or other unlawful  
287 means, nor does it preclude a provider from pursuing an employer  
288 for breach of its contractual obligations to the provider.

289 (g) Mislead or deceive consumers about the voluntary nature  
290 of tips, gratuities, or donations or make representations that

2-01118-24

20241146\_\_

291 tips, gratuities, or other donations will benefit any specific  
292 individuals.

293 (3) A provider may use the mailing address provided by a  
294 consumer to determine the consumer's state of residence for  
295 purposes of this part.

296 560.413 Applicability.—

297 (1) Notwithstanding any other provision of law, earned wage  
298 access services offered and provided by a registrant in  
299 compliance with this chapter are not considered to be any of the  
300 following:

301 (a) In conflict with s. 516.17 or other state law governing  
302 the sale or assignment of, or an order for, earned but unpaid  
303 income.

304 (b) A loan or other form of credit or debt, and the  
305 provider is not considered a creditor, debt collector, or lender  
306 with respect to such services.

307 (c) Money transmission, and the provider is not considered  
308 a money transmitter, as defined in s. 560.103(24), with respect  
309 to such services.

310 (2) Chapter 516 does not apply to proceeds that a provider  
311 provides to a consumer in accordance with this part.

312 (3) A voluntary tip, gratuity, or other donation paid by a  
313 consumer to a registrant in accordance with this chapter is not  
314 considered a finance charge.

315 560.414 Administrative remedies, penalties.—

316 (1) The commission may issue an order for one or more of  
317 the following actions or penalties if it finds that a provider  
318 has violated or is operating in violation of this part or rules  
319 adopted pursuant thereto:

2-01118-24

20241146\_\_

320 (a) Issue a notice of noncompliance under s. 120.695.

321 (b) Impose an administrative fine in the Class II category  
322 pursuant to s. 570.971 for each act or omission.

323 (c) Direct that the provider cease and desist specified  
324 activities.

325 (d) Refuse to register or revoke or suspend a registration.

326 (e) Place the registrant on probation, subject to  
327 conditions specified by the commission.

328 (2) The administrative proceedings that could result in the  
329 entry of an order imposing any of the actions or penalties  
330 specified in subsection (1) are governed by chapter 120.

331 (3) The commission may adopt rules under ss. 120.536(1) and  
332 120.54 to administer this part.

333 Section 2. On or before the effective date of this act, the  
334 commission shall prescribe the form and content of an  
335 application for registration to provide earned wage access  
336 services pursuant to this act. A provider that, as of January 1,  
337 2024, is engaged in the business of providing earned wage access  
338 services in this state may, until 6 months after the effective  
339 date of this act, continue to engage in such business without  
340 registering if the provider has submitted an application for  
341 registration and otherwise complies with this act.

342 Section 3. This act shall take effect October 1, 2024.