

By Senator Trumbull

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1                   A bill to be entitled  
2           An act relating to earned wage access services;  
3           creating s. 437.01, F.S.; providing a short title;  
4           creating s. 437.02, F.S.; defining terms; creating s.  
5           437.03, F.S.; requiring providers to register with the  
6           Financial Services Commission; providing registration  
7           requirements; requiring a provider to display its  
8           registration certificate; providing for renewal of  
9           such certificate; providing requirements with which a  
10          provider must comply; specifying mechanisms by which  
11          registrations may be denied, not renewed, or revoked;  
12          requiring the commission to deny, refuse to renew, or  
13          revoke a registration certificate under certain  
14          circumstances; creating s. 437.04, F.S.; providing  
15          requirements with which a provider must comply;  
16          prohibiting certain acts by a provider; requiring a  
17          provider offering consumer-directed earned wage access  
18          services to comply with certain requirements; creating  
19          s. 437.05, F.S.; providing construction and  
20          applicability; creating s. 437.06, F.S.; providing  
21          administrative penalties; providing construction;  
22          authorizing the Financial Services Commission to adopt  
23          rules; requiring the commission, by a date certain, to  
24          prescribe the form and content of an application for  
25          registration; authorizing a person who previously  
26          provided earned wage access services to continue for a  
27          specified time without registering under certain  
28          conditions; specifying applicability; providing  
29          effective dates.

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

Section 1. Section 437.01, Florida Statutes, is created to read:

437.01 Short title.—This chapter may be cited as the “Florida Earned Wage Access Services Act.”

Section 2. Section 437.02, Florida Statutes, is created to read:

437.02 Definitions.—As used in this chapter, the term:

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

(2) “Commission” means the Financial Services Commission created by s. 20.121(3).

(3) “Consumer” means a person who resides in this state.

(4) “Consumer-directed earned wage access services” means the business of delivering to consumers access to earned but unpaid income that is based on the consumer’s representations and the provider’s reasonable determination of the consumer’s earned but unpaid income.

(5) “Director” means a person on the provider’s board of directors.

(6) “Earned but unpaid income” means salary, wages, compensation, or other income that a consumer or an employer has represented, and that a provider has reasonably determined has been earned or accrued to the benefit of the consumer, in exchange for the consumer’s provision of services to the employer or on behalf of the employer, including on an hourly

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59 basis, a project-based basis, a piecework basis, or any other  
60 basis and including circumstances in which the consumer is  
61 acting as an independent contractor of the employer, but that  
62 has not, at the time of the payment of proceeds, been paid to  
63 the consumer by the employer.

64 (7) "Earned wage access services" means the business of  
65 providing consumer-directed earned wage access services or  
66 employer-integrated earned wage access services, or both.

67 (8) (a) "Employer," except as provided in paragraph (b),  
68 means either of the following:

69 1. A person who employs a consumer.

70 2. A person who is contractually obligated to pay a  
71 consumer earned but unpaid income in exchange for the consumer's  
72 provision of services to the employer or on behalf of the  
73 employer, including working on an hourly basis, a project-based  
74 basis, a piecework basis, or any other basis and including  
75 circumstances in which the consumer is acting as an independent  
76 contractor of the employer.

77 (b) The term does not include the following:

78 1. A customer of an employer.

79 2. Any other person whose obligation to make a payment of  
80 salary, wages, compensation, or other income to a consumer is  
81 not based on the provision of services by that consumer for or  
82 on behalf of the person.

83 (9) "Employer-integrated earned wage access services" means  
84 the business of delivering to consumers access to earned but  
85 unpaid income that is based on employment, income, or attendance  
86 data obtained directly or indirectly from an employer.

87 (10) "Fee" means a payment imposed by a provider for

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88 delivery or expected delivery of proceeds to a consumer or a  
89 subscription or membership payment imposed by a provider for a  
90 bona fide group of services which includes earned wage access  
91 services. The term does not include a voluntary tip, gratuity,  
92 or other donation.

93 (11) "Key officer" means the chief executive officer, chief  
94 financial officer, or chief compliance officer of a business  
95 entity.

96 (12) "Member" means a person who has the right to receive  
97 upon dissolution, or who has contributed, 10 percent or more of  
98 the capital of a provider that is organized as a limited  
99 liability company.

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

103 (14) "Partner" means a person who has the right to receive  
104 upon dissolution, or has contributed, 10 percent or more of the  
105 capital of a provider that is organized as a partnership.

106 (15) "Proceeds" means a payment to a consumer by a provider  
107 which is based on earned but unpaid income.

108 (16) "Provider" means a business entity that is in the  
109 business of providing earned wage access services to consumers.  
110 The term does not include:

111 (a) A service provider, such as a payroll service provider,  
112 whose role may include verifying available earnings but which is  
113 not contractually obligated to fund proceeds as part of an  
114 earned wage access service; or

115 (b) An employer that offers to provide a portion of salary,  
116 wages, or other compensation before the normally scheduled pay

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117 date.

118 Section 3. Section 437.03, Florida Statutes, is created to  
119 read:

120 437.03 Registration and certificate renewal.—

121 (1) Each provider must register with the commission by  
122 submitting all of the following information:

123 (a) The provider's legal business name, trade name, mailing  
124 address, and business locations.

125 (b) The full names and mailing addresses of the provider's  
126 partners, members, directors, or key officers and the designated  
127 agent for service of process for the business entity.

128 (c) A statement documenting whether the provider is a  
129 domestic or foreign business entity.

130 (d) The name of the state in which and the date on which  
131 the business entity was formed or incorporated. If applicable,  
132 the business entity must provide its charter number and, if a  
133 foreign corporation, the date it registered with the Department  
134 of State.

135 (e) If the provider operates under a fictitious name, the  
136 date on which the provider registered its fictitious name with  
137 the Department of State.

138 (2) The commission shall issue a certificate evidencing  
139 proof of registration, which the provider must prominently  
140 display at its primary place of business. If the provider  
141 conducts business through a website, the provider must post a  
142 copy of its certificate or provide its registration number on  
143 the website.

144 (3) A provider must renew its certificate biennially on or  
145 before the expiration date. The commission may extend the

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146 expiration date of a provider's certificate for up to 1 year in  
147 order to establish staggered expiration dates.

148 (4) A certificate issued under this section is not  
149 assignable, and the provider may not conduct business under more  
150 than one name, unless such name is registered. A provider must  
151 notify the commission if the provider changes its registered  
152 name, location, or designated agent for service of process.

153 (5) The commission may deny, refuse to renew, or revoke the  
154 certificate of any provider based upon a determination that the  
155 provider, or any of the provider's partners, members, directors,  
156 or key officers, has:

157 (a) Failed to meet the requirements for registration as  
158 provided in this section;

159 (b) Been convicted of a crime involving fraud, dishonest  
160 dealing, or any other act of moral turpitude;

161 (c) Not satisfied a civil fine or penalty arising out of an  
162 administrative or enforcement action brought by a governmental  
163 agency or private person based upon conduct involving fraud,  
164 dishonest dealing, an act of moral turpitude, or a violation of  
165 this chapter which has not been satisfied;

166 (d) Pending against it any criminal, administrative, or  
167 enforcement proceeding based upon conduct involving fraud,  
168 dishonest dealing, or any other act of moral turpitude in any  
169 jurisdiction; or

170 (e) Had a judgment entered against it in an action brought  
171 by the commission or the Department of Legal Affairs under this  
172 chapter or the Florida Deceptive and Unfair Trade Practices Act.

173 (6) The commission must deny, refuse to renew, or revoke  
174 the certificate of a provider or deny a registration or renewal

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175 request by any of the provider's partners, members, directors,  
176 or key officers if the provider has not satisfied a civil  
177 penalty or administrative fine imposed for a violation of s.  
178 437.04.

179 Section 4. Section 437.04, Florida Statutes, is created to  
180 read:

181 437.04 Provider requirements and prohibitions.-

182 (1) A provider registered under s. 437.03 must do all of  
183 the following:

184 (a) Develop and implement policies and procedures to  
185 respond to questions raised by consumers and to address  
186 complaints from consumers in an expedient manner.

187 (b) If the provider offers a consumer the option to receive  
188 proceeds for a fee or solicits a tip, gratuity, or other  
189 donation, it must offer the consumer at least one reasonable  
190 option to obtain proceeds at no cost to the consumer and clearly  
191 explain how to elect the no-cost option.

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

194 1. Inform the consumer of his or her rights under the  
195 agreement.

196 2. Clearly disclose all fees associated with the earned  
197 wage access services.

198 (d) Inform the consumer of any material changes to the  
199 terms and conditions of the earned wage access services before  
200 implementing such changes for that consumer.

201 (e) Allow the consumer to cancel use of the provider's  
202 earned wage access services at any time without incurring a  
203 cancellation fee imposed by the provider.

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

206 (g) If a provider solicits, charges, or receives a tip,  
207 gratuity, or other donation from a consumer, the provider must  
208 do the following:

209 1. Clearly and conspicuously disclose to the consumer  
210 immediately before each transaction that a tip, gratuity, or  
211 other donation amount may be zero and is voluntary.

212 2. Clearly and conspicuously disclose in its service  
213 agreement with the consumer that tips, gratuities, or donations  
214 are voluntary and that the offering of earned wage access  
215 services, including the amount of proceeds a consumer is  
216 eligible to request and the frequency with which proceeds are  
217 provided to a consumer, is not contingent on whether the  
218 consumer pays the tip, gratuity, or other donation, or on the  
219 size of the tip, gratuity, or other donation.

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

222 (i) If the provider seeks from a consumer's depository  
223 institution, including by means of electronic funds transfer,  
224 repayment of outstanding proceeds or payment of fees or other  
225 amounts owed or paid, including voluntary tips, gratuities, or  
226 other donations, in connection with the activities covered under  
227 this chapter, the provider must:

228 1. Comply with applicable provisions of the federal  
229 Electronic Funds Transfer Act of 1978, 15 U.S.C. ss. 1693 et  
230 seq., and regulations adopted under the act.

231 2. Reimburse the consumer for the full amount of any  
232 overdraft or insufficient funds fee imposed on a consumer by the



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233 consumer's depository institution which was caused by the  
234 provider attempting to seek payment of any outstanding proceeds,  
235 fees, or other payments, including voluntary tips, gratuities,  
236 or other donations, in connection with the activities covered by  
237 this chapter on a date before, or in an incorrect amount from,  
238 the date or amount disclosed to the consumer. This subparagraph  
239 does not apply to payments of outstanding amounts or fees  
240 incurred by a consumer through fraudulent or other unlawful  
241 means.

242 (2) A provider registered under s. 437.03 may not do any of  
243 the following:

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

248 (b) Require a consumer's credit report or a credit score  
249 provided or issued by a consumer reporting agency to determine a  
250 consumer's eligibility for earned wage access services.

251 (c) Accept payment of outstanding proceeds, fees, or  
252 voluntary tips, gratuities, or other donations from a consumer  
253 by means of a credit card, charge card, or debit card.

254 (d) Charge a late fee, a deferral fee, interest, or any  
255 other penalty or charge for the failure to pay outstanding  
256 proceeds, fees, or voluntary tips, gratuities, or other  
257 donations.

258 (e) Report to a consumer reporting agency or debt collector  
259 any information about a consumer regarding the inability of the  
260 consumer to repay outstanding proceeds, fees, or voluntary tips,  
261 gratuities, or other donations.

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262       (f)1. Compel or attempt to compel a consumer to pay any  
263 outstanding proceeds, fees, or voluntary tips, gratuities, or  
264 other donations to the provider through any of the following  
265 means:

266           a. A lawsuit against the consumer in a court of competent  
267 jurisdiction.

268           b. Use of a third party to pursue collection from the  
269 consumer on the provider's behalf.

270           c. The sale of outstanding amounts to a third-party  
271 collector or debt buyer to pursue collection from the consumer.

272       2. This paragraph does not preclude a provider from  
273 compelling the payment of outstanding proceeds or fees incurred  
274 by a consumer through fraudulent or other unlawful means or  
275 pursuing an employer for breach of its contractual obligations  
276 to the provider.

277       (g) Mislead or deceive the consumer about the voluntary  
278 nature of any tips, gratuities, or other donations the provider  
279 solicits, charges, or receives or make representations that  
280 tips, gratuities, or other donations will benefit a specific  
281 person.

282       (3) A provider may use the mailing address provided by a  
283 consumer to determine the consumer's state of residence for  
284 purposes of this chapter.

285       (4) A provider offering consumer-directed earned wage  
286 access services must comply with the requirements set forth in  
287 s. 560.404.

288       Section 5. Section 437.05, Florida Statutes, is created to  
289 read:

290       437.05 Construction; applicability.-

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291 (1) (a) Notwithstanding any other law to the contrary,  
292 earned wage access services offered or provided by a provider in  
293 compliance with this chapter are not considered any of the  
294 following:

295 1. A violation of or noncompliance with s. 516.17 or any  
296 other state law governing deductions from payroll, salary,  
297 wages, compensation, or other income or the purchase, sale or  
298 assignment of, or an order for, earned but unpaid income.

299 2. A loan or other form of credit or debit, and the  
300 provider is not considered a creditor, debt collector, or lender  
301 with respect thereto.

302 3. A money transmission, and the provider is not considered  
303 a money transmitter as defined in s. 560.103.

304 (b) Notwithstanding any other law to the contrary, fees  
305 paid to a provider in accordance with this chapter are not  
306 considered interest or finance charges.

307 (2) Chapter 516 does not apply to proceeds paid to a  
308 consumer in accordance with this chapter.

309 (3) A voluntary tip, gratuity, or other donation paid by a  
310 consumer to a provider in accordance with this chapter is not  
311 considered a finance charge.

312 (4) If there is a conflict between this chapter and any  
313 other state law, this chapter prevails.

314 Section 6. Section 437.06, Florida Statutes, is created to  
315 read:

316 437.06 Administrative penalties.-

317 (1) If the commission finds that a provider has violated  
318 this chapter or any rules adopted or orders issued under this  
319 chapter, the commission may enter an administrative order that

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320 does one or more of the following:

321 (a) Issues a notice of noncompliance pursuant to s.  
322 120.695.

323 (b) Imposes an administrative fine in the Class II category  
324 pursuant to s. 570.971 for each act or omission.

325 (c) Directs the provider to cease and desist activities  
326 specified by the commission.

327 (d) Refuses to renew, revoke, or suspend the provider's  
328 certificate.

329 (e) Places the provider on probation, subject to conditions  
330 specified by the commission.

331 (2) An administrative proceeding that could result in the  
332 entry of an order imposing any of the penalties specified in  
333 this section is governed by chapter 120.

334 Section 7. Upon this act becoming a law, the Financial  
335 Services Commission is authorized, and all conditions are deemed  
336 met, to adopt rules pursuant to ss. 120.536(1) and 120.54,  
337 Florida Statutes. By January 1, 2026, the Financial Services  
338 Commission must prescribe the form and content for an  
339 application for registration to provide earned wage access  
340 services pursuant to this act.

341 Section 8. A person who was engaged in the business of  
342 providing earned wage access services in this state on or before  
343 January 1, 2025, may continue to engage in the business of  
344 providing earned wage access services without registering until  
345 July 1, 2026, if the person has submitted an application for  
346 registration and otherwise complies with this act.

347 Section 9. Section 437.04(1)(b) and (h), Florida Statutes,  
348 as created by this act, first apply, with respect to a provider

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349 that offers proceeds to a consumer under the terms of an  
350 agreement that specifies the consumer's cost of obtaining  
351 proceeds, to any agreement entered into, renewed, or modified on  
352 or after January 1, 2025.

353       Section 10. Except as otherwise expressly provided in this  
354 act and except for this section, which shall take effect upon  
355 this act becoming a law, this act shall take effect January 1,  
356 2026.