

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

**Offered By**

1 AMEND House Committee Substitute for House Bill No. 586, Page 46, Section 361.715, Line 14,  
2 by inserting after all of said section and line the following:

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4 "361.749. 1. As used in this section, unless the context clearly indicates otherwise, the  
5 following terms mean:

6 (1) "Commissioner", the commissioner of the division of finance;

7 (2) "Consumer", any individual;

8 (3) "Consumer-directed wage access services", the business of offering or providing earned  
9 wage access services directly to a consumer based on the consumer's representation and the  
10 provider's reasonable determination of the consumer's earned but unpaid income;

11 (4) "Division", the Missouri division of finance within the department of commerce and  
12 insurance;

13 (5) "Earned but unpaid income", salary, wages, compensation, or other income that a  
14 consumer or an employer has represented, and that a provider has reasonably determined, has been  
15 earned or has accrued to the benefit of the consumer in exchange for the consumer's provision of  
16 services to the employer or on behalf of the employer, including on an hourly, project-based,  
17 piecework, or other basis and including where the consumer is acting as an independent contractor  
18 of the employer, but has not, at the time of the payment of proceeds, been paid to the consumer by  
19 the employer;

20 (6) "Earned wage access services", the business of providing consumer-directed wage  
21 access services, employer-integrated wage access services, or both;

22 (7) "Employer":

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

24 (b) Any other person who is contractually obligated to pay a consumer earned but unpaid  
25 income in exchange for a consumer's provision of services to the employer or on behalf of the  
26 employer, including on an hourly, project-based, piecework, or other basis and including where the  
27 consumer is acting as an independent contractor with respect to the employer.

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29 "Employer" does not include a customer of an employer or any other person whose obligation to

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1 make a payment of salary, wages, compensation, or other income to a consumer is not based on the  
 2 provision of services by that consumer for or on behalf of such person;

3 (8) "Employer-integrated wage access services", the business of delivering to consumers  
 4 access to earned but unpaid income that is based on employment, income, and attendance data  
 5 obtained directly or indirectly from an employer;

6 (9) "Fee":

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

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

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

13  
 14 A voluntary tip, gratuity, or donation shall not be deemed a fee;

15 (10) "Outstanding proceeds", a payment of proceeds to a consumer by a provider that has  
 16 not yet been repaid to that provider;

17 (11) "Person", a partnership, corporation, association, sole proprietorship, limited liability  
 18 company, or nonprofit or governmental entity;

19 (12) "Proceeds", a payment of funds to a consumer by a provider that is based on earned but  
 20 unpaid income;

21 (13) "Provider", a person who is in the business of offering and providing earned wage  
 22 access services to consumers.

23 2. (1) No person shall engage in the business of earned wage access services in this state  
 24 without first registering as an earned wage access services provider with the division.

25 (2) The annual registration fee shall be one thousand dollars payable to the division as of the  
 26 first day of July of each year. The division may establish a biennial registration arrangement, but in  
 27 no case shall the registration fee be payable for more than one year at a time.

28 (3) Registration shall be made on forms prepared by the commissioner and shall contain the  
 29 following information:

30 (a) Name, business address, and telephone number of the earned wage access services  
 31 provider;

32 (b) Name and business address of corporate officers and directors or principals or partners;

33 (c) A sworn statement by an appropriate officer, principal, or partner of the earned wage  
 34 access services provider that:

35 a. The provider is financially capable of engaging in the business of earned wage access  
 36 services; and

37 b. If a corporation, that the corporation is authorized to transact business in this state.

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2 If any material change occurs in the information contained in the registration form, a revised  
3 statement shall be submitted to the commissioner.

4 (4) A certificate of registration shall be issued by the commissioner within thirty calendar  
5 days after the date on which all registration materials have been received by the commissioner and  
6 shall not be assignable or transferable, except as approved by the commissioner.

7 (5) Each certificate of registration shall remain in full force and effect until surrendered,  
8 revoked, or suspended.

9 3. This section shall not apply to:

10 (1) A bank or savings and loan association whose deposits or accounts are eligible for  
11 insurance by the Federal Deposit Insurance Corporation, or a subsidiary of such a bank or savings  
12 and loan association;

13 (2) A credit union doing business in this state; or

14 (3) A person authorized to make loans or extensions of credit under the laws of this state or  
15 the United States, who is subject to regulation and supervision by this state or the United States.

16 4. Each provider shall:

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

19 (2) Before entering into an agreement with a consumer for the provision of earned wage  
20 access services, provide a consumer with a written paper or electronic document, which can be  
21 included as part of the contract to provide earned wage access services and which meets all of the  
22 following requirements:

23 (a) Informs the consumer of his or her rights under the agreement; and

24 (b) Fully and clearly discloses all fees associated with the earned wage access services;

25 (3) Inform the consumer of the fact of any material changes to the terms and conditions of  
26 the earned wage access services before implementing those changes for that consumer;

27 (4) Provide proceeds to a consumer by any means mutually agreed upon by the consumer  
28 and provider;

29 (5) Comply with all local, state, and federal privacy and information security laws;

30 (6) In any case in which the provider will seek repayment of outstanding proceeds, fees, or  
31 other payments, including voluntary tips, gratuities, or other donations from a consumer's account at  
32 a depository institution and including via electronic funds transfer:

33 (a) Comply with applicable provisions of the federal Electronic Funds Transfer Act and its  
34 implementing regulations; and

35 (b) Reimburse the consumer for the full amount of any overdraft or nonsufficient funds fees  
36 imposed on a consumer by the consumer's depository institution that were caused by the provider  
37 attempting to seek payment of any outstanding proceeds, fees, voluntary tips, gratuities, or other  
38 donations on a date before, or in an incorrect amount from, the date or amount disclosed to the  
39 consumer.

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2 The provisions of this subdivision shall not apply with respect to payments of outstanding proceeds,  
3 fees, tips, gratuities, or other donations incurred by a consumer through fraudulent or other means;  
4 and

5 (7) If a provider solicits, charges, or receives a tip, gratuity, or donation from a consumer:

6 (a) Clearly and conspicuously disclose to the consumer immediately prior to each  
7 transaction that a tip, gratuity, or donation amount may be zero and is voluntary;

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

13 (c) Refrain from misleading or deceiving consumers about the voluntary nature of such tips,  
14 gratuities, or donations; and

15 (d) Refrain from making representations that tips or gratuities will benefit any specific,  
16 individual person.

17 5. A provider shall not:

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

20 (2) Charge interest for failure to repay outstanding proceeds, fees, voluntary tips, gratuities,  
21 or other donations;

22 (3) Report any information about the consumer regarding the inability of the provider to be  
23 repaid outstanding proceeds, fees, voluntary tips, gratuities, or other donations to a consumer credit  
24 reporting agency or a debt collector;

25 (4) Require a consumer's credit report or credit score to determine a consumer's eligibility  
26 for earned wage access services;

27 (5) Accept payment from a consumer of outstanding proceeds, fees, voluntary tips,  
28 gratuities, or other donations via credit card or charge card; or

29 (6) Compel or attempt to compel repayment by a consumer of outstanding proceeds, fees,  
30 voluntary tips, gratuities, or other donations through any of the following means:

31 (a) A suit against the consumer in a court of competent jurisdiction;

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

33 (c) Sale of outstanding amounts to a third-party collector or debt buyer for collection from  
34 the consumer.

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36 The provisions of this subdivision shall not apply to payments of outstanding proceeds, fees, tips,  
37 gratuities, or other donations incurred by a consumer through fraudulent or other means or preclude  
38 a provider from pursuing an employer for breach of its contractual obligations to the provider.

39 6. For purposes of the laws of this state:

1 (1) Earned wage access services offered and provided by a registered provider shall not be  
2 considered to be any of the following:

3 (a) A violation of or noncompliance with the laws governing the sale or assignment of or an  
4 order for earned but unpaid income;

5 (b) A loan or other form of credit, and the provider shall not be considered a creditor or a  
6 lender;

7 (c) Money transmission, and the provider shall not be considered a money transmitter;

8 (2) Fees, voluntary tips, gratuities, or other donations shall not be considered interest or  
9 finance charges.

10 7. The commissioner, or his or her duly authorized representative, may make such  
11 investigation as is deemed necessary and, to the extent necessary for this purpose, may examine the  
12 registrant or any other person having personal knowledge of the matters under investigation, and  
13 shall have the power to compel the production of all relevant books, records, accounts, and  
14 documents by registrants.

15 8. (1) An earned wage access services provider shall maintain records of its earned wage  
16 access services transactions and shall preserve its records for at least two years after the final date on  
17 which it provides proceeds to a consumer.

18 (2) Records required by this section may be maintained electronically.

19 9. The division may promulgate rules as may be necessary for the administration of this  
20 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
21 under the authority delegated in this section shall become effective only if it complies with and is  
22 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
23 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to  
24 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
25 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
26 August 28, 2023, shall be invalid and void.

27 10. (1) Any provider registered pursuant to this section who fails, refuses, or neglects to  
28 comply with the provisions of this section or commits any criminal act may have its registration  
29 suspended or revoked by the commissioner, after a hearing before the commissioner on an order of  
30 the commissioner to show cause why such order of suspension or revocation should not be entered  
31 specifying the grounds therefor, which shall be served on the registrant at least ten days prior to the  
32 hearing.

33 (2) Whenever it shall appear to the commissioner that any provider registered pursuant to  
34 this section is failing, refusing, or neglecting to make a good faith effort to comply with the  
35 provisions of this section, the commissioner may issue an order to cease and desist, which order may  
36 be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the  
37 neglect, failure, or refusal shall continue. The penalty shall be assessed and collected by the  
38 commissioner. In determining the amount of the penalty, the commissioner shall take into account

1 the appropriateness of the penalty with respect to the gravity of the violation, the history of previous  
2 violations, and such other matters as justice may require.

3 11. All revenues collected by or paid to the commissioner pursuant to this section shall be  
4 forwarded immediately to the director of revenue, who shall deposit them in the division of finance  
5 fund.

6 12. Any earned wage access services provider knowingly and willfully violating the  
7 provisions of this section shall be guilty of a class A misdemeanor.

8 13. If there is a conflict between the provisions of this section and any other state statute, the  
9 provisions of this section shall control."; and

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11 Further amend said bill by amending the title, enacting clause, and intersectional references  
12 accordingly.