

FIRST REGULAR SESSION

HOUSE BILL NO. 759

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DAVIDSON.

1604H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 290, RSMo, by adding thereto thirteen new sections relating to earned wage access services registration, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 290, RSMo, is amended by adding thereto thirteen new sections,
2 to be known as sections 290.650, 290.653, 290.656, 290.659, 290.662, 290.665, 290.668,
3 290.671, 290.674, 290.677, 290.680, 290.683, and 290.686, to read as follows:

290.650. Sections 290.650 to 290.686 shall be known and may be cited as the
2 "Missouri Earned Wage Access Services Registration Act".

290.653. As used in sections 290.650 to 290.686, the following terms mean:

2 (1) "Consumer", a natural person who resides in this state;

3 (2) "Commissioner", the commissioner of the division of finance within the
4 department of commerce and insurance;

5 (3) "Earned but unpaid income", wages, compensation, or income that a
6 consumer has represented, and that a provider has reasonably determined, have been
7 earned or have accrued to the benefit of the consumer but have not at the time of the
8 payment of proceeds been paid to the consumer by an obligor;

9 (4) "Earned wage access service", the business of delivering proceeds to
10 consumers prior to the next date on which an obligor is obligated to pay salary, wages,
11 compensation, or other income to a consumer;

12 (5) "Mandatory payment", an amount determined by a provider that must be
13 paid by a consumer to that provider as a condition of receiving or repaying proceeds;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 **(6) "Nonmandatory payment", an amount paid by a consumer or an obligor to a**
15 **provider that does not meet the definition of a mandatory payment. Examples of**
16 **permitted nonmandatory payments include, but are not limited to:**

17 **(a) A fee imposed by a provider for delivery or expedited delivery of proceeds to**
18 **a consumer, as long as the provider offers the consumer at least one option to receive**
19 **proceeds at no cost to the consumer;**

20 **(b) An amount paid by an obligor to a provider on a consumer's behalf that**
21 **entitles the consumer to receive proceeds at no cost to the consumer;**

22 **(c) A subscription or membership fee imposed by a provider for a group of**
23 **services that include earned wage access services, as long as the provider offers the**
24 **consumer at least one option to receive proceeds at no cost to the consumer; or**

25 **(d) A tip or gratuity paid by a consumer to a provider, as long as the provider**
26 **offers the consumer at least one option to receive proceeds at no cost to the consumer;**

27 **(7) "Obligor", an employer or another person who is contractually or legally**
28 **obligated to pay a consumer earned but unpaid income on an hourly, project-based,**
29 **piecework, or other basis, including where the consumer is acting as an independent**
30 **contractor. "Obligor" shall not include a service provider of an obligor or another third**
31 **party that has an obligation to make any payment to a consumer based solely on the**
32 **consumer's agency relationship with the obligor;**

33 **(8) "Outstanding proceeds", a payment of proceeds to a consumer by a provider**
34 **that has not yet been repaid to that provider;**

35 **(9) "Person", includes a partnership, corporation, or association;**

36 **(10) "Proceeds", a payment of funds to a consumer by a provider that is based**
37 **on earned but unpaid income;**

38 **(11) "Provider", a person who is in the business of offering and providing earned**
39 **wage access services to consumers.**

290.656. 1. No person shall engage in the business of earned wage access services
2 **in this state without first registering as an earned wage access services provider with the**
3 **commissioner.**

4 **2. The annual registration fee shall be five hundred dollars payable to the**
5 **commissioner as of the first day of July of each year. The commissioner may establish a**
6 **biennial registration arrangement, but in no case shall the fees be payable for more than**
7 **one year at a time.**

8 **3. Registration shall be made on forms prepared by the commissioner and shall**
9 **contain the following information:**

10 **(1) The name, business address, and telephone number of the earned wage**
11 **access services provider;**

12 (2) The name and business address of corporate officers and commissioners or
13 principals or partners;

14 (3) A sworn statement by an appropriate officer, principal, or partner of the
15 earned wage access services provider that:

16 (a) The provider is financially capable of engaging in the business of earned
17 wage access services; and

18 (b) If a corporation, that the corporation is authorized to transact business in
19 this state.

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

23 4. A certificate of registration shall not be assignable or transferable, except as
24 approved by the commissioner.

25 5. Each certificate of registration shall remain in full force and effect until
26 surrendered, revoked, or suspended.

 290.659. The following entities are exempt from sections 290.650 to 290.686:

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

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

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

 290.662. A provider shall comply with all of the following requirements:

2 (1) The provider shall provide all proceeds on a nonrecourse basis and shall treat
3 nonmandatory payments as nonrecourse payment obligations;

4 (2) Before providing a consumer with earned wage access services, the provider
5 shall provide a consumer with a written paper or electronic document that can be
6 included as part of the contract to provide earned wage access services and that meets
7 all of the following requirements:

8 (a) Informs the consumer of the terms and conditions of the earned wage access
9 services;

10 (b) Includes a statement that the commissioner has jurisdiction over the earned
11 wage access services performed by the provider and provides both a phone number and
12 a website through which consumers can submit complaints about the provider's earned
13 wage access services to the division of finance;

14 (c) Is written in a font and using language intended to be easily understood by a
15 layperson; and

16 (d) Discloses any non-mandatory payments that may be directly imposed by the
17 provider in connection with the provision of earned wage access services;

18 (3) The provider shall provide proceeds to a consumer via any means mutually
19 agreed upon by the consumer and provider;

20 (4) In any case in which the provider will seek repayment of proceeds from a
21 consumer, the provider shall inform the consumer when the provider will make its first
22 attempt to seek repayment of those proceeds from the consumer;

23 (5) A provider that seeks repayment of proceeds from a consumer's depository
24 institution account shall comply with applicable National Automated Clearing House
25 Association (NACHA) rules; and

26 (6) The provider shall permit a consumer to cancel participation in an earned
27 wage access service at any time without incurring a charge for doing so.

290.665. 1. A provider shall not do any of the following:

2 (1) Impose a mandatory payment on a consumer that directly relates to the
3 provision of earned wage access services;

4 (2) Charge a late fee, interest, or any other penalty or charge for failure to repay
5 outstanding proceeds; or

6 (3) Make the offering of earned wage access services, either in the amount of
7 proceeds a consumer is eligible to request, or the frequency with which proceeds are
8 provided to a consumer, contingent on whether the consumer makes any non-
9 mandatory payments or on the size of any non-mandatory payments that consumer may
10 make to that provider in connection with the provision of earned wage access services;
11 provided, however, that this prohibition shall not be construed to prohibit a non-
12 mandatory payment equal to a percentage of proceeds provided.

13 **2. A provider shall not compel or attempt to compel repayment by a consumer of**
14 **outstanding proceeds or nonmandatory payments owed by that consumer to that**
15 **provider through any of the following means:**

16 (1) A civil suit against the consumer in a court of competent jurisdiction;

17 (2) Use of a third-party to pursue collection of outstanding proceeds or non-
18 mandatory payments on the provider's behalf; or

19 (3) Sale of outstanding amounts to a third-party collector or debt buyer.

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21 A nonrecourse classification does not preclude the use by a provider of any of the
22 foregoing methods to compel or attempt to compel repayment of outstanding amounts
23 incurred by a consumer through fraudulent means.

290.668. The following shall apply in connection with earned wage access services offered and provided by a registered provider in compliance with sections 290.650 to 290.686:

(1) Earned wage access services shall not be considered an assignment of wages for purposes of section 408.210 or 432.030;

(2) The provision of proceeds shall not be considered a loan for purposes of sections 367.100 to 367.215, section 408.210, or sections 408.500 to 408.512; and

(3) Non-mandatory payments paid by a consumer to a provider shall not be considered finance charges, for the purposes of applying the federal Truth in Lending Act to the earned wage access services provided by that provider.

290.671. 1. A registered provider shall obtain a surety bond or establish a surety account in the amount of ten thousand dollars in compliance with this section.

2. If a bond is obtained, a copy of it shall be filed with the commissioner. If a surety account is established, notification of the depository, the trustee, and the account number shall be filed with the commissioner.

3. The bond or surety account required shall be in favor of the state for the benefit of any person who is damaged by any violation of sections 290.650 to 290.686.

4. The aggregate liability of the surety or trustee to all persons damaged by an earned wage access services provider's violation of sections 290.650 to 290.686 shall not exceed the amount of the surety account or bond.

5. A depository holding moneys in a surety account on behalf of an earned wage access services provider in compliance with this section shall not convey moneys in the account to the earned wage access services provider that established the account unless that provider presents a statement issued by the commissioner indicating that the provider has a valid registration issued by the commissioner.

6. The bond or surety account shall be maintained until two years after the date the earned wage access services provider ceases operations in this state.

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

2. Records required under this section may be maintained electronically.

290.677. The commissioner may promulgate all necessary rules and regulations for the administration of sections 290.650 to 290.686. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly

7 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
8 a rule are subsequently held unconstitutional, then the grant of rulemaking authority
9 and any rule proposed or adopted after August 28, 2023, shall be invalid and void.

209.680. In the event any earned wage access services provider fails, refuses, or
2 neglects to comply with the provisions of sections 290.650 to 290.686, its certificate of
3 registration may be suspended or revoked by order of the commissioner after a hearing
4 before the commissioner, which shall be conducted in accordance with chapter 621.

209.683. There is hereby created in the state treasury the "Missouri Earned
2 Wage Access Services Registration Fund", which shall consist of moneys collected by or
3 paid to the commissioner under sections 290.650 to 290.686. The state treasurer shall be
4 custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer
5 may approve disbursements. The fund shall be a dedicated fund and, upon
6 appropriation, moneys in this fund shall be used solely for the administration of
7 sections 290.650 to 290.686. Notwithstanding the provisions of section 33.080 to the
8 contrary, any moneys remaining in the fund at the end of the biennium shall not revert
9 to the credit of the general revenue fund. The state treasurer shall invest moneys in the
10 fund in the same manner as other funds are invested. Any interest and moneys earned
11 on such investments shall be credited to the fund.

209.686. Any earned wage access services provider that willfully and knowingly
2 violates the provisions of sections 290.650 to 290.686 shall be guilty of a class A
3 misdemeanor.

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