

1.1 moves to amend H.F. No. 2874 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. [47.604] EARNED WAGE ACCESS SERVICES.

1.4 Subdivision 1. Definitions. For purposes of this section, the terms defined have the
1.5 meanings given them:

1.6 (a) "Commissioner" means the commissioner of commerce.

1.7 (b) "Consumer" means an individual who resides in the state of Minnesota.

1.8 (c) "Consumer-directed wage access services" means the business of delivering to a
1.9 consumer access to earned but unpaid income that is based on the consumer's representations
1.10 and the provider's reasonable determination of the consumer's earned but unpaid income.

1.11 (d) "Earned but unpaid income" means salary, wages, compensation, or other income
1.12 that a consumer or an employer has represented, and that a provider has reasonably
1.13 determined, has been earned or accrued to the benefit of the consumer in exchange for the
1.14 consumer's provision of services to the employer or on behalf of the employer, including
1.15 on an hourly, project-based, piecework, or other basis and including circumstances in which
1.16 the consumer is acting as an independent contractor of the employer, but has not, at the time
1.17 of the payment of proceeds, been paid to the consumer by the employer.

1.18 (e) "Earned wage access services" means consumer-directed wage access services,
1.19 employer-integrated wage access services, or both.

1.20 (f) "Employer" means a person who employs a consumer or any other person who is
1.21 contractually obligated to pay a consumer earned but unpaid income.

2.1 Employer does not include a customer of an employer or any other person whose
2.2 obligation to make a payment is not based on the provision of services by a customer for
2.3 or on behalf of an employer.

2.4 (g) "Employer-integrated wage access services" means the business of delivering to a
2.5 consumer access to earned but unpaid income that is based on employment, income, or
2.6 attendance data obtained directly or indirectly from an employer or an employer's payroll
2.7 service provider.

2.8 (h) "Fee" means:

2.9 (i) a fee imposed by a provider for delivery or expedited delivery of proceeds to a
2.10 consumer;

2.11 (ii) a subscription or membership fee imposed by a provider for a bona fide group of
2.12 services that include earned wage access services; or

2.13 (iii) an amount paid by an employer to a provider on a consumer's behalf, which entitles
2.14 the consumer to receive proceeds at reduced or no cost to the consumer.

2.15 Fee does not include a voluntary tip, gratuity, or other donation.

2.16 (i) "Outstanding proceeds" means proceeds remitted to a consumer by a provider that
2.17 have not yet been repaid to the provider.

2.18 (j) "Person" means association, corporation, partnership, or any other type of business
2.19 entity.

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

2.22 (l) "Earned wage access services provider" or "provider" means a person that is in the
2.23 business of providing earned wage access services to consumers, whether or not a person
2.24 has physical location in this state or offers earned wage access services via the internet.

2.25 Earned wage access services provider does not include:

2.26 (i) a service provider, such as a payroll service provider, whose role may include verifying
2.27 the available earnings but is not contractually obligated to fund any proceeds delivered as
2.28 part of an earned wage access service;

2.29 (ii) an employer that offers a portion of salary, wages, or compensation directly to its
2.30 employees or independent contractors before the normally scheduled pay date; or

3.1 (iii) a person that provides earned wage access services and reports a consumer's payment
3.2 or nonpayment of outstanding proceeds, fees, voluntary gratuities or other donations solely
3.3 in connection with the earned wage access services to a consumer reporting agency, as
3.4 defined in United States Code, title 15, section 1681a(f).

3.5 Subd. 2. Requirements and prohibitions. (a) A provider must:

3.6 (1) develop and implement policies and procedures to respond to questions raised by
3.7 consumers and address complaints from consumers in an expedient manner;

3.8 (2) whenever it offers a consumer the option to receive proceeds for a fee or solicits an
3.9 optional tip, gratuity, or other donation, offer to the consumer at least one reasonable option
3.10 to obtain proceeds at no cost to the consumer and clearly explain how to elect the no-cost
3.11 option;

3.12 (3) before entering into an agreement with a consumer for the provision of earned wage
3.13 access services:

3.14 (i) inform the consumer of their rights under the agreement; and

3.15 (ii) clearly and conspicuously disclose all fees associated with the earned wage access
3.16 services;

3.17 (4) inform the consumer of any material changes to the terms and conditions of the
3.18 earned wage access services before implementing those changes for that consumer;

3.19 (5) allow the consumer to cancel use of the provider's earned wage access services at
3.20 any time with reasonable notice, without incurring a cancellation fee imposed by the provider;

3.21 (6) comply with all applicable local, state, and federal privacy and information security
3.22 laws;

3.23 (7) if a provider solicits, charges, or receives a tip, gratuity, or other donation from a
3.24 consumer:

3.25 (i) clearly and conspicuously disclose to the consumer immediately prior to each
3.26 transaction that a tip, gratuity, or other donation amount may be zero and is voluntary;

3.27 (ii) clearly and conspicuously disclose in its service contract with the consumer and
3.28 elsewhere that tips, gratuities, or donations are voluntary and that the offering of earned
3.29 wage access services, including the amount of proceeds a consumer is eligible to request
3.30 and the frequency with which proceeds are provided to a consumer, is not contingent on
3.31 whether the consumer pays any tip, gratuity, or other donation or on the amount of the tip,
3.32 gratuity, or other donation;

4.1 (iii) solicit or receive tips, gratuities, or other donations only one time per transaction
4.2 and confirm the final transaction on the completion screen;

4.3 (iv) do not set any default payment amount greater than zero or otherwise make it
4.4 practically difficult for the consumer to avoid making a payment;

4.5 (8) provide proceeds to a consumer by any means mutually agreed upon by the consumer
4.6 and the provider; and

4.7 (9) if the provider will seek repayment of outstanding proceeds or payment of fees or
4.8 other amounts owed, including voluntary tips, gratuities, or other donations, in connection
4.9 with the activities covered by this section, from a consumer's account at a depository
4.10 institution, including by means of electronic fund transfer:

4.11 (i) comply with applicable provisions of United States Code, title 15, sections 1693 to
4.12 1693r, and regulations adopted thereunder; and

4.13 (ii) reimburse the consumer for the full amount of any overdraft or nonsufficient funds
4.14 fees imposed on a consumer by the consumer's depository institution that were caused by
4.15 the provider attempting to seek payment of any outstanding proceeds, fees, or other payments,
4.16 in connection with the activities covered by this section, including voluntary tips, gratuities,
4.17 or other donations, on a date before, or in an incorrect amount from, the date or amount
4.18 disclosed to the consumer. A provider is not subject to the requirements of this item with
4.19 respect to payments of outstanding proceeds or fees incurred by a consumer through
4.20 fraudulent or other unlawful means.

4.21 (b) A provider must not:

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

4.24 (2) require a consumer's credit score from a credit report provided or issued by a consumer
4.25 reporting agency to determine a consumer's eligibility for earned wage access services;

4.26 (3) accept payment of outstanding proceeds, fees, voluntary tips, gratuities, or other
4.27 donations from a consumer by means of a credit card or charge card;

4.28 (4) charge a consumer a late fee, deferral fee, interest, or any other penalty or charge
4.29 for failure to pay outstanding proceeds, fees, voluntary tips, gratuities, or other donations;

4.30 (5) report to a debt collector any information about the consumer regarding the inability
4.31 of the provider to be repaid outstanding proceeds, fees, voluntary tips, gratuities, or other
4.32 donations;

5.1 (6) compel or attempt to compel payment by a consumer of outstanding proceeds, fees,
5.2 voluntary tips, gratuities, or other donations to the provider by:

5.3 (i) filing suit against a consumer in civil court;

5.4 (ii) using of a third party to pursue collection from a consumer on a provider's behalf;

5.5 or

5.6 (iii) selling outstanding proceeds, fees, voluntary tips, gratuities, or other donations to
5.7 a third-party collector or debt buyer for collection from a consumer;

5.8 (7) if the provider solicits, charges, or receives tips, gratuities, or other donations from
5.9 a consumer, misleads or deceives a consumer about the voluntary nature of the tips, gratuities,
5.10 or donations; or misrepresents that they will benefit any specific individuals or group of
5.11 individuals if they do not; or

5.12 (8) impose a fee, as defined in subdivision 1, paragraph (h), clause (i), in excess of:

5.13 (i) \$5 for any advance of proceeds equal to or less than \$75; or

5.14 (ii) \$7.50 for any advance of proceeds greater than \$75.

5.15 (c) The limitations set forth in paragraph (b), clause (6), do not preclude the use by a
5.16 provider of any of the methods specified in that paragraph to compel payment of outstanding
5.17 proceeds or fees incurred by a consumer through fraudulent or other unlawful means, nor
5.18 do they preclude a provider from using legal means to pursue an employer for breach of its
5.19 contractual obligations to the provider.

5.20 (d) A provider may use the mailing address or state of residence provided to it by a
5.21 consumer or employer to determine the consumer's state of residence for purposes of this
5.22 section.

5.23 Subd. 3. **Applicability.** (a) This section does not apply to a person doing business under
5.24 and as permitted by any law of this state or of the United States relating to banks, savings
5.25 associations, trust companies, or credit unions.

5.26 (b) Notwithstanding any other provision of law, earned wage access services offered
5.27 and provided by a licensed earned wage access services provider in accordance with this
5.28 section are not:

5.29 (1) in violation of or noncompliance with any law governing the payment of minimum
5.30 or overtime wages; deductions from payroll, salary, wages, compensation, or other income;
5.31 or the purchase, sale or assignment of, or an order for earned but unpaid income;

5.32 (2) a loan or other form of credit or debt; or

6.1 (3) money transmission.

6.2 (c) Notwithstanding any other provision of law, fees, voluntary tips, gratuities, or other
6.3 donations paid in accordance with this section to an earned wage access services provider
6.4 shall not be considered interest or finance charges.

6.5 (d) If there is a conflict between the provisions of this section and any other provision
6.6 of law, the provisions of this section shall prevail.

6.7 Subd. 4. **Licensure.** (a) Before a person engages in the business of offering or providing
6.8 earned wage access services to a consumer, they must obtain a license from the commissioner
6.9 as an earned wage access services provider.

6.10 (b) The application for licensure shall be made in accordance with procedures described
6.11 in sections 56.02, 56.04, 56.07, and 56.08.

6.12 (c) Each license shall state the address at which the business is to be conducted or shall
6.13 state that the business is to be conducted entirely online and shall state fully the name of
6.14 the licensee, and if the licensee is a copartnership or association, the names of the members
6.15 thereof, and if a corporation, the date and place of its incorporation. The license shall be
6.16 kept conspicuously posted in the place of business of the licensee or made available on the
6.17 licensee's internet website, and shall not be transferable or assignable.

6.18 (d) Notwithstanding paragraph (a), a person who, as of September 30, 2025, was engaged
6.19 in the business of providing earned wage access services in this state may, until the
6.20 commissioner has processed the person's application for a license, continue to engage in
6.21 the business of providing earned wage access services in this state and shall not be subject
6.22 to any action for engaging in the business of providing earned wage access services in this
6.23 state prior to the operative date of this act if the person has submitted an application for a
6.24 license within six months after the commissioner has prescribed the form and content of an
6.25 application pursuant to this section and otherwise complies with this section.

6.26 Subd. 5. **Books of account; annual report; schedule of charges; disclosures.** (a) A
6.27 licensee shall keep and use in the business books, accounts, and records as will enable the
6.28 commissioner to determine whether the licensee is complying with this section.

6.29 (b) A licensee shall annually on or before March 15 file a report to the commissioner
6.30 giving all of the information the commissioner reasonably requires concerning the earned
6.31 wage access services business and operations in this state during the preceding calendar
6.32 year, including:

6.33 (1) gross revenue attributable to its earned wage access services;

- 7.1 (2) the total number of transactions in which the provider provided proceeds to consumers;
7.2 (3) the total number of unique consumers to whom the provider provided proceeds;
7.3 (4) the total dollar amount of proceeds the provider provided to consumers; and
7.4 (5) the total dollar amount of fees, voluntary tips, gratuities, or other donations the
7.5 provider received from consumers.

7.6 Subd. 6. **Examinations.** (a) For the purpose of discovering violations of this section or
7.7 securing information lawfully required by the commissioner hereunder, the commissioner
7.8 may, at any time, investigate the earned wage access services provider and examine the
7.9 earned wage access services provider's books, accounts, records, and files, of every person
7.10 who is required to be licensed under this section, whether the person shall act or claim to
7.11 act as principal or agent, or under or without the authority of this section. The commissioner
7.12 shall have free access to the offices and places of business, books, accounts, papers, records,
7.13 files, safes, and vaults of earned wage access services provider. The commissioner has the
7.14 authority to require the attendance of and to examine, under oath, all persons whose testimony
7.15 the commissioner may require relative to the earned wage access services provider or to
7.16 the subject matter of any examination, investigation, or hearing.

7.17 (b) Each licensee shall pay to the commissioner the amount required under section
7.18 46.131, and the commissioner may maintain an action for the recovery of such costs in any
7.19 court of competent jurisdiction.

7.20 Subd. 7. **Complaints alleging violation.** A consumer having reason to believe that this
7.21 section has been violated may file with the commissioner a written complaint setting forth
7.22 the details of the alleged violation. The commissioner, upon receipt of the complaint, may
7.23 inspect the pertinent books, records, letters, and contracts of the provider involved. The
7.24 commissioner may assess against the provider a fee covering the necessary costs of an
7.25 investigation under this subdivision. The commissioner may maintain an action for the
7.26 recovery of the costs in a court of competent jurisdiction.

7.27 Subd. 8. **Suspension or revocation of license.** (a) The commissioner may, upon 30
7.28 days' notice to the licensee stating the contemplated action and its grounds, and upon
7.29 reasonable opportunity to be heard, revoke a license issued under this section if the
7.30 commissioner shall find that:

- 7.31 (1) the licensee has failed to pay the annual license fee required to comply with any
7.32 demand, ruling, or requirement of the commissioner lawfully made pursuant to and within
7.33 the authority of this section;

8.1 (2) the licensee has violated any material provision of this section or any rule lawfully
8.2 made by the commissioner under and within the authority of this section; or

8.3 (3) any fact or condition exists which, if it had existed at the time of the original
8.4 application for the license, clearly would have warranted the commissioner in refusing
8.5 originally to issue the license.

8.6 (b) The commissioner may, upon three days' notice and a hearing, suspend any license
8.7 for a period not exceeding 30 days, pending investigation.

8.8 (c) The commissioner may revoke or suspend a license or, if the commissioner shall
8.9 find that the grounds for revocation or suspension are of general application to all offices,
8.10 or to more than one office, operated by the licensee, the commissioner may revoke or suspend
8.11 all of the licenses.

8.12 (d) A licensee may surrender a license by delivering to the commissioner written notice;
8.13 the surrender shall not affect the licensee's civil or criminal liability for acts committed prior
8.14 to the surrender.

8.15 (e) No revocation or suspension or surrender of a license shall impair or affect the
8.16 obligation of any preexisting lawful contract between a licensee and a consumer.

8.17 (f) Every license issued hereunder shall remain in force and effect until the same shall
8.18 have been surrendered, revoked, or suspended in accordance with the provisions of this
8.19 section, but the commissioner shall have authority, on the commissioner's own initiative,
8.20 to reinstate suspended licenses or to issue new licenses to a licensee whose license has been
8.21 revoked if no fact or condition exists which clearly would have warranted the commissioner
8.22 in refusing originally to issue the license.

8.23 (g) When the commissioner revokes or suspends a license issued pursuant to this section,
8.24 a written order and findings containing the evidence and the reasons supporting the revocation
8.25 or suspension shall be filed in the commissioner's office, and a copy served to the licensee."