State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FOURTH SESSION

H. F. No. 2874

03/26/2025 Authored by Kresha and Myers
The bill was read for the first time and referred to the Committee on Commerce Finance and Policy

A bill for an act

relating to commerce; regulating earned wage access services; proposing coding for new law in Minnesota Statutes, chapter 47.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[47.86] EARNED WAGE ACCESS SERVICES.**

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Consumer" means an individual who resides in Minnesota.

(b) "Consumer-directed wage access services" means delivering to a consumer 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.

(c) "Earned but unpaid income" means salary, wages, compensation, or other income that a consumer or an employer represents and that a provider reasonably determines: (1) has been earned or accrued to the benefit of the consumer in exchange for the consumer providing services to the employer or on behalf of the employer, including (i) on an hourly, project-based, piecework, or other basis, and (ii) in circumstances in which the consumer acts as an employer's independent contractor; and (2) has not been paid to the consumer by the employer at the time the proceeds are paid.

(d) "Earned wage access services" means providing consumer-directed wage access services, employer-integrated wage access services, or both.

(e) "Earned wage access services provider" or "provider" means a person that is in the business of providing earned wage access services to consumers. Earned wage access services provider does not include:

(1) a service provider, including but not limited to a payroll service provider, whose role may include verifying the available earnings but is not contractually obligated to fund any proceeds delivered as part of an earned wage access service; or

(2) an employer that offers a portion of salary, wages, or compensation directly to the employer's employees or independent contractors before the normally scheduled pay date.

(f) "Employer" means a person who employs a consumer or other person and who is contractually obligated to pay a consumer earned but unpaid income in exchange for the consumer providing services to the employer or on behalf of the employer, including: (1) on an hourly, project-based, piecework, or other basis; and (2) in circumstances in which the consumer acts as an independent contractor with respect to the employer. Employer does not include a customer of an employer or other person whose obligation to make a payment of salary, wages, compensation, or other income to a consumer is not based on the provision of services by that consumer for or on behalf of the person.

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

(h) "Fee" means: (1) a fee imposed by a provider for delivery or expedited delivery of proceeds to a consumer; or (2) a subscription or membership fee imposed by a provider for a bona fide group of services that include earned wage access services. Fee does not include a voluntary tip, gratuity, or other donation.

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

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

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

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

(2) whenever the provider offers a consumer the option to receive proceeds for a fee, or solicits an optional tip, gratuity, or other donation, offer to the consumer at least one

reasonable option to obtain proceeds at no cost to the consumer and clearly explain how to elect the no-cost option;

(3) before entering into an agreement with a consumer to provide earned wage access services:

(i) inform the consumer of the consumer's rights under the agreement; and

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

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

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

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

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

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

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

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

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

(i) comply with applicable provisions of the federal Electronic Fund Transfer Act, United States Code, title 15, sections 1693 to 1693r, and regulations adopted under the Electronic Fund Transfer Act; and

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

(b) A provider must not:

(1) impose a fee greater than $7 in connection with a fee described under subdivision 1, paragraph (h);

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

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

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

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

(6) report to a consumer reporting agency or debt collector information about the consumer regarding the provider's inability to be repaid outstanding proceeds, fees, voluntary tips, gratuities, or other donations;

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

(i) a lawsuit against the consumer in a court of competent jurisdiction;

(ii) use of a third party to pursue collection from the consumer on the provider's behalf; or

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

(8) if the provider solicits, charges, or receives tips, gratuities, or other donations from a consumer, mislead or deceive a consumer about the voluntary nature of the tips, gratuities, or donations or represent that the tips, gratuities, or donations benefit a specific individual or group of individuals.

(c) The limitations set forth under paragraph (b), clause (7), do not preclude a provider from: (1) using a method specified under paragraph (b), clause (7), to compel payment of outstanding proceeds or fees incurred by a consumer through fraudulent or other unlawful means; or (2) pursuing an employer for breach of the employer's contractual obligations to the provider.

(d) A provider may use the mailing address or state of residence provided by an individual or that individual's employer to determine the individual's state of residence for purposes of this section.

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

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

(1) in violation of or noncompliance with law governing: (i) deductions from payroll, salary, wages, compensation, or other income; or (ii) the purchase, sale, or assignment of or an order for earned but unpaid income;

(2) a loan or other form of credit or debt. A provider is not a creditor, debt collector, or lender with respect to a loan or other form of credit or debt; or

(3) money transmission. A provider is not a money transmitter with respect to money transmission.

(c) Notwithstanding any other law, fees, voluntary tips, gratuities, or other donations paid in accordance with this section to an earned wage access services provider are not interest or finance charges.

(d) If this section conflicts with any other provision of law, this section prevails.

Subd. 4. **Licensure.** (a) Before a person offers or provides earned wage access services to consumers, the person must obtain a license from the commissioner as an earned wage access services provider. For purposes of this subdivision, "person" includes a person that does not have a physical location in Minnesota but that offers and provides earned wage access services electronically via the Internet.

(b) The application for licensure must be made in accordance with procedures under sections 56.02, 56.04, 56.07, and 56.08.

(c) A license must state: (1) the address where the business is to be conducted or that the business is to be conducted entirely online; (2) the full name of the licensee; and (3) if the licensee is (i) a copartnership or association, the names of the copartnership or association's members, and (ii) a corporation, the date and place of the corporation's incorporation. The license must be conspicuously posted in the licensee's place of business or made available on the licensee's website. A license is not transferable or assignable.

(d) Notwithstanding paragraph (a), a person who provided earned wage access services in Minnesota as of January 1, 2025, may, until the commissioner has processed the person's license application, continue to provide earned wage access services in Minnesota without a license if the person submitted a license application within three months after the commissioner prescribed the form and content of an application and otherwise complies with this section.

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

(b) A licensee shall file a report to the commissioner on or before March 15 each year. The report must include the information the commissioner reasonably requires concerning the earned wage access services business and operations during the preceding calendar year, including:

(1) gross revenue attributable to the licensee's earned wage access services;

(2) the total number of transactions in which the provider provided proceeds to consumers;

(3) the total number of unique consumers to whom the provider provided proceeds;

(4) the total dollar amount of proceeds the provider provided to consumers; and

(5) the total dollar amount of fees, voluntary tips, gratuities, or other donations the provider received from consumers.

Subd. 6. **Examinations.** (a) For the purpose of discovering violations of this section or securing information lawfully required by the commissioner, the commissioner may investigate the earned wage access services provider and examine books, accounts, records, and files, regardless of whether the person acts or claims to act (1) as principal or agent, or (2) under or without the authority of this section. The commissioner has free access to the offices, places of business, books, accounts, papers, records, files, safes, and vaults of all persons that must register under this section. The commissioner is authorized to require the attendance of and to examine under oath all persons whose testimony the commissioner requires relative to the earned wage access services business or to the subject matter of an examination, investigation, or hearing.

(b) A licensee must pay to the commissioner the amount required under section 46.131, and the commissioner may maintain an action for the recovery of the costs in any court of competent jurisdiction.

Subd. 7. **Complaints alleging violation.** A consumer that has reason to believe this section has been violated may file a written complaint with the commissioner setting forth the details of the alleged violation. Upon receiving the complaint, the commissioner may inspect the pertinent books, records, letters, and contracts of the provider involved. The commissioner may assess the provider a fee to cover the necessary costs of an investigation under this subdivision. The commissioner may maintain an action to recover the costs in a court of competent jurisdiction.

Subd. 8. **Suspension or revocation of license.** (a) The commissioner may, upon 30 days' notice to the licensee stating the contemplated action and the grounds forming the basis for the action, and upon reasonable opportunity for the licensee to be heard, revoke a license issued under this section if the commissioner finds:

(1) a licensee failed to (i) pay the annual license fee required by this section, or (ii) comply with any demand, ruling, or requirement the commissioner lawfully made pursuant to the authority of this section;

(2) a licensee violated any material provision of this section or any rule adopted by the commissioner under this section; or

(3) a fact or condition exists that, if the fact or condition had existed at the time of the original application for the license, would have warranted the commissioner refusing to originally issue the license.

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

(c) The commissioner may revoke or suspend a license if grounds for revocation or suspension occur or exist. If the commissioner finds that the grounds for revocation or suspension apply to multiple offices operated by the licensee, the commissioner must revoke or suspend all of the licenses issued to the licensee to which the grounds for revocation or suspension apply.

(d) A licensee may surrender a license by delivering to the commissioner written notice that the licensee surrenders the license. The surrender does not affect the licensee's civil or criminal liability for acts committed prior to the surrender.

(e) A revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and a consumer.

(f) A license issued under this section remains effective until the license is surrendered, revoked, or suspended under this section. The commissioner may reinstate suspended licenses or issue new licenses to a licensee whose license or licenses have been revoked if no fact or condition exists that would have warranted the commissioner to initially refuse to issue the license under this section.

(g) When the commissioner revokes or suspends a license issued under this section, the commissioner must file a written order that contains the evidence and reasons supporting the revocation or suspension. A copy of the written order must be delivered to the licensee.