88R20958 JES-F

By:  Lambert H.B. No. 3827

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of earned wage access services; requiring an occupational license; providing an administrative penalty; imposing fees.

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

SECTION 1.  Section 14.107, Finance Code, is amended to read as follows:

Sec. 14.107.  FEES. (a) The finance commission shall establish reasonable and necessary fees for carrying out the commissioner's powers and duties under this chapter, Title 4, Chapter 393 with respect to a credit access business, and Chapters 371, 392, [~~and~~] 394, and 398 and under Chapters 51, 302, 601, and 621, Business & Commerce Code.

(b)  The finance commission by rule shall set the fees for licensing and examination, as applicable, under Chapter 393 with respect to a credit access business or Chapter 342, 347, 348, 351, 353, [~~or~~] 371, or 398 at amounts or rates necessary to recover the costs of administering those chapters. The rules may provide that the amount of a fee charged to a license holder is based on the volume of the license holder's regulated business and other key factors. The commissioner may provide for collection of a single fee for the term of the license from a person licensed under Subchapter G of Chapter 393 or Chapter 342, 347, 348, 351, or 371.  The fee must include amounts due for both licensing and examination.

SECTION 2.  Section 14.112(a), Finance Code, is amended to read as follows:

(a)  The finance commission by rule shall prescribe the licensing or registration period for licenses and registrations issued under Chapters 342, 345, 347, 348, 351, 352, 353, 371, 393, [~~and~~] 394, and 398 of this code and Chapter 1956, Occupations Code, not to exceed two years.

SECTION 3.  Section 14.201, Finance Code, is amended to read as follows:

Sec. 14.201.  INVESTIGATION AND ENFORCEMENT AUTHORITY. Investigative and enforcement authority under this subchapter applies only to:

(1)  this chapter;

(2)  Subtitles B and C, Title 4;

(3)  Chapter 393 with respect to a credit access business;

(4)  Chapter 394;

(5)  Chapter 398; and

(6) [~~(5)~~]  Subchapter B, Chapter 1956, Occupations Code.

SECTION 4.  Sections 14.251(a) and (b), Finance Code, are amended to read as follows:

(a)  The commissioner may assess an administrative penalty against a person who knowingly and wilfully violates or causes a violation of this chapter, Chapter 394, Chapter 398, or Subtitle B, Title 4, or a rule adopted under this chapter, Chapter 394, Chapter 398, or Subtitle B, Title 4.

(b)  The commissioner may order the following businesses or other persons to pay restitution to an identifiable person:

(1)  a person who violates or causes a violation of this chapter, Chapter 394, or Subtitle B, Title 4, or a rule adopted under this chapter, Chapter 394, or Subtitle B, Title 4;

(2)  a credit access business who violates or causes a violation of Chapter 393 or a rule adopted under Chapter 393;

(3)  an earned wage access services provider who violates or causes a violation of Chapter 398 or a rule adopted under Chapter 398; or

(4) [~~(3)~~]  a person who violates or causes a violation of Subchapter B, Chapter 1956, Occupations Code, or a rule adopted under that subchapter.

SECTION 5.  Title 5, Finance Code, is amended by adding Chapter 398 to read as follows:

CHAPTER 398. EARNED WAGE ACCESS SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 398.001.  DEFINITIONS. In this chapter:

(1)  "Commissioner" means the consumer credit commissioner.

(2)  "Consumer" means an individual who resides in this state.

(3)  "Consumer-directed wage access services" means offering or providing services directly to a consumer based on the consumer's earned but unpaid income.

(4)  "Earned but unpaid income" means salary, wages, compensation, or income that:

(A)  a consumer represents, and a provider reasonably determines, has been earned or has accrued to the benefit of the consumer in exchange for the consumer's provision of services to an employer or on the employer's behalf; and

(B)  has not, at the time of the payment of proceeds, been paid to the consumer by the employer.

(5)  "Earned wage access services" means the business of providing:

(A)  consumer-directed wage access services;

(B)  employer-integrated wage access services; or

(C)  both consumer-directed wage access services and employer-integrated wage access services.

(6)  "Earned wage access services provider" or "provider" means a person who is in the business of offering and providing earned wage access services to consumers.

(7)  "Employer" means a person who employs a consumer or a person who is contractually obligated to pay a consumer earned but unpaid income on an hourly, project-based, piecework, or other basis, in exchange for the consumer's provision of services to the employer or on the employer's behalf, including to a consumer who is acting as an independent contractor with respect to the employer. The term does not include a customer of the employer or a person whose obligation to pay salary, wages, compensation, or other income to a consumer is not based on the consumer's provision of services for or on behalf of that person.

(8)  "Employer-integrated wage access services" means delivering to consumers access to earned but unpaid income that is based on employment, income, and attendance data obtained directly or indirectly from an employer.

(9)  "Fee" includes an amount charged by a provider for expedited delivery or other delivery of proceeds to a consumer and for a subscription or membership fee charged by a provider for a bona fide group of services that includes earned wage access services. The term does not include a voluntary tip, gratuity, or donation paid to the provider.

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

(11)  "Person" means a corporation, partnership, cooperative, association, or other business entity.

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

Sec. 398.002.  APPLICABILITY OF AND CONFLICT WITH OTHER LAW. (a) A person licensed under this chapter is not subject to the provisions of Chapter 151 or Title 4 of this code with respect to earned wage access services offered or provided by the person.

(b)  If there is a conflict between a provision of this chapter and any other provision of this title, the provision of this chapter controls.

Sec. 398.003.  WAIVER VOID. A waiver of a provision of this chapter by a consumer is void.

SUBCHAPTER B. LICENSE REQUIRED; APPLICATION FOR AND ISSUANCE OF LICENSE

Sec. 398.051.  LICENSE REQUIRED. (a) Except as provided by Subsection (c), a person must hold a license under this chapter to engage in the business of offering or providing earned wage access services in this state.

(b)  A person may not use any device, subterfuge, or pretense to evade the application of this section.

(c)  The following persons are not required to obtain a license under Subsection (a):

(1)  a bank, credit union, savings bank, or savings and loan association organized under the laws of the United States or under the laws of the financial institution's state of domicile; or

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

Sec. 398.052.  APPLICATION REQUIREMENTS; FEES. (a) The application for a license under this chapter must:

(1)  be under oath;

(2)  give the approximate location from which the business is to be conducted or state that the business will be conducted entirely online;

(3)  identify the business's principal parties in interest; and

(4)  contain other relevant information that the commissioner requires.

(b)  On the filing of one or more license applications, the applicant shall pay to the commissioner an investigation fee of $200.

(c)  On the filing of each license application, the applicant shall pay to the commissioner a license fee in an amount determined as provided by Section 14.107.

Sec. 398.053.  BOND. (a) If the commissioner requires, an applicant for a license under this chapter shall file with the application a bond that is:

(1)  in the amount of $10,000, regardless of the number of license applications filed by the applicant;

(2)  satisfactory to the commissioner; and

(3)  issued by a surety company qualified to do business as a surety in this state.

(b)  The bond must be in favor of this state for the use of this state and the use of a person who has a cause of action under this chapter against the license holder.

(c)  The bond must be conditioned on:

(1)  the license holder's faithful performance under this chapter and rules adopted under this chapter; and

(2)  the payment of all amounts that become due to this state or another person under this chapter during the period for which the bond is given.

(d)  The aggregate liability of a surety to all persons damaged by the license holder's violation of this chapter may not exceed the amount of the bond.

Sec. 398.054.  INVESTIGATION OF APPLICATION. On the filing of an application and a bond, if required under Section 398.053, and on payment of the required fees, the commissioner shall conduct an investigation to determine whether to issue the license.

Sec. 398.055.  APPROVAL OR DENIAL OF APPLICATION; ISSUANCE OF LICENSE. (a) The commissioner shall approve the application and issue to the applicant a license under this chapter if the commissioner finds that:

(1)  the financial responsibility, experience, character, and general fitness of the applicant are sufficient to:

(A)  command the confidence of the public; and

(B)  warrant the belief that the business will be operated lawfully and fairly, within the purposes of this chapter; and

(2)  the applicant has net assets of at least $25,000 available for the operation of the business as determined in accordance with Section 398.103.

(b)  If the commissioner does not find the eligibility requirements of Subsection (a) are met, the commissioner shall notify the applicant.

(c)  If an applicant requests a hearing on the application not later than the 30th day after the date of notification under Subsection (b), the applicant is entitled to a hearing not later than the 60th day after the date of the request.

(d)  The commissioner shall approve or deny the application not later than the 60th day after the date of the filing of a completed application with payment of the required fees or, if a hearing is held, after the date of the completion of the hearing on the application. The commissioner and the applicant may agree to a later date in writing.

Sec. 398.056.  DISPOSITION OF FEES ON DENIAL OF APPLICATION. If the commissioner denies the application, the commissioner shall retain the investigation fee and shall return to the applicant the license fee submitted with the application.

Sec. 398.057.  LICENSE TERM. A license issued under this chapter is valid for the period prescribed by finance commission rule adopted under Section 14.112.

SUBCHAPTER C. LICENSE

Sec. 398.101.  NAME AND PLACE ON LICENSE. (a) A license must state:

(1)  the name of the license holder; and

(2)  the address of the office from which the business is to be conducted or, if the business is to be conducted entirely online, the address of the license holder's headquarters.

(b)  A license holder may not conduct business under this chapter under a name other than the name stated on the license.

(c)  A license holder may not conduct business under this chapter at a location other than the address stated on the license, unless the business is to be conducted entirely online.

Sec. 398.102.  LICENSE DISPLAY. A license holder shall display a license at the place of business provided on the license or include its license number on the business's Internet website if it conducts business online.

Sec. 398.103.  MINIMUM ASSETS FOR LICENSE. A license holder shall maintain for each office for which a license is held net assets of at least $25,000 that are used or readily available for use in conducting the business of that office. A license holder that operates entirely online shall maintain net assets of at least $25,000.

Sec. 398.104.  LICENSE FEE. Not later than the 30th day before the date the license expires, a license holder shall pay to the commissioner for each license held a fee in an amount determined as provided by Section 14.107.

Sec. 398.105.  EXPIRATION OF LICENSE ON FAILURE TO PAY FEE. If the fee for a license is not paid before the 16th day after the date on which the written notice of delinquency of payment has been given to the license holder, the license expires on that day.

Sec. 398.106.  GROUNDS FOR REFUSING LICENSE RENEWAL. The commissioner may refuse to renew the license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

Sec. 398.107.  LICENSE SUSPENSION OR REVOCATION. After notice and opportunity for a hearing, the commissioner may suspend or revoke a license if the commissioner finds that:

(1)  the license holder failed to pay the license fee, an examination fee, an investigation fee, or another charge imposed by the commissioner under this chapter;

(2)  the license holder, knowingly or without the exercise of due care, violated this chapter or a rule adopted or order issued under this chapter; or

(3)  a fact or condition exists that, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the commissioner's denial of the application.

Sec. 398.108.  CORPORATE CHARTER FORFEITURE. (a) A license holder who violates this chapter is subject to revocation of the holder's license and, if the license holder is a corporation, forfeiture of the corporation's charter.

(b)  When the attorney general is notified of a violation of this chapter and revocation of a license, the attorney general shall file suit in a district court in Travis County, if the license holder is a corporation, for forfeiture of the license holder's charter.

Sec. 398.109.  LICENSE SUSPENSION OR REVOCATION FILED WITH PUBLIC RECORDS. The decision of the commissioner on the suspension or revocation of a license and the evidence considered by the commissioner in making the decision shall be filed in the public records of the commissioner.

Sec. 398.110.  REINSTATEMENT OF SUSPENDED LICENSE; ISSUANCE OF NEW LICENSE AFTER REVOCATION. The commissioner may reinstate a suspended license or issue a new license on application to a person whose license has been revoked if at the time of the reinstatement or issuance no fact or condition exists that clearly would have justified the commissioner's denial of an original application for the license.

Sec. 398.111.  SURRENDER OF LICENSE. A license holder may surrender a license issued under this chapter by complying with the commissioner's written instructions relating to the surrender.

Sec. 398.112.  EFFECT OF LICENSE SUSPENSION, REVOCATION, OR SURRENDER. (a) The suspension, revocation, or surrender of a license issued under this chapter does not affect the obligation of a contract between the license holder and a consumer entered into before the revocation, suspension, or surrender.

(b)  Surrender of a license does not affect the license holder's civil or criminal liability for an act committed before surrender.

Sec. 398.113.  MOVING AN OFFICE. (a) A license holder shall give written notice to the commissioner before the 30th day preceding the date the license holder moves an office from the location provided on the license.

(b)  The commissioner shall amend a license holder's license accordingly.

Sec. 398.114.  TRANSFER OR ASSIGNMENT OF LICENSE. A license may be transferred or assigned only with the approval of the commissioner.

SUBCHAPTER D. LIMITING LIABILITY BY LATE LICENSURE

Sec. 398.151.  PAYMENT OF FEES. A person who obtains or renews a license under this chapter after the date on which the person was required to obtain or renew the license may limit the person's liability as provided by this subchapter by paying to the commissioner:

(1)  all prior license fees that the person should have paid under this chapter; and

(2)  a late filing fee as provided by Section 398.152.

Sec. 398.152.  LATE FILING FEE FOR OBTAINING OR RENEWING LICENSE. (a) The late filing fee for renewing an expired license is $1,000 if the license:

(1)  was in good standing when it expired; and

(2)  is renewed not later than the 180th day after its expiration date.

(b)  The late filing fee is $5,000 for:

(1)  obtaining a license after the time it is required under this chapter; or

(2)  renewing an expired license to which Subsection (a) does not apply.

Sec. 398.153.  EFFECT OF COMPLIANCE WITH SUBCHAPTER FOR LICENSE HOLDER. (a) A person who renews an expired license and pays the applicable license fees and, if required, a late filing fee as provided by Section 398.152 is considered for all purposes to have held the required license as if it had not expired.

(b)  A person who under this section is considered to have held a license is not subject to any liability, forfeiture, or penalty, other than as provided by this subchapter, relating to the person's not holding a license during the period for which the license fees and late filing fee are paid under Section 398.152.

Sec. 398.154.  EFFECT OF COMPLIANCE WITH SUBCHAPTER ON PERSON OTHER THAN LICENSE HOLDER. A benefit provided to a person under Section 398.153 also applies to that person's employees or other agents, employers, predecessors, successors, and assigns but does not apply to any other person required to be licensed under this title.

SUBCHAPTER E. DISCLOSURE STATEMENT

Sec. 398.201.  DISCLOSURE STATEMENT. (a) Before executing a contract with a consumer for the provision of earned wage access services, an earned wage access services provider shall provide the consumer with a disclosure that:

(1)  may be in written or electronic form;

(2)  may be included as part of the contract to provide earned wage access services;

(3)  uses a font and language intended to be easily understood by a layperson;

(4)  informs the consumer of the consumer's rights under the contract;

(5)  fully and clearly discloses each fee associated with the earned wage access services;

(6)  includes an explanation of the consumer's right to proceed against the surety bond under Section 398.053; and

(7)  provides the name and address of the surety company that issued the surety bond.

(b)  An earned wage access services provider must notify a consumer of any material change to the information provided in a disclosure statement under Subsection (a) to that consumer, using a font and language intended to be easily understood by a layperson, before implementing the particular change with respect to that consumer.

Sec. 398.202.  COPY OF DISCLOSURE STATEMENT. An earned wage access services provider shall keep in its files a copy of the disclosure statement, including any notifications of material changes to the statement, required under Section 398.201 that includes the consumer's written or digital signature acknowledging receipt of the disclosure statement or notification until the second anniversary of the date on which the provider provides the disclosure or notification.

SUBCHAPTER F. CONTRACT FOR SERVICES

Sec. 398.251.  FORM AND TERMS OF CONTRACT. (a) Each contract for the provision of earned wage access services to a consumer by a provider may be in writing or electronic form and must:

(1)  be dated;

(2)  include the written or digital signature of the consumer; and

(3)  use a font and language intended to be easily understood by a layperson.

(b)  Each contract must disclose that:

(1)  the provider is required to offer the consumer at least one reasonable option to obtain proceeds at no cost to the consumer and clearly explain how to elect that no-cost option;

(2)  fee obligations are subject to the limitations on compelling or attempting to compel repayment under Section 398.301(a)(6);

(3)  proceeds will be provided to the consumer using a method agreed to by the consumer and the provider;

(4)  the consumer may cancel at any time the consumer's participation in the provider's earned wage access services without incurring a cancellation fee;

(5)  the provider is required to develop and implement policies and procedures to respond to questions asked and concerns raised by consumers and to address complaints from consumers in an expedient manner;

(6)  if a provider seeks repayment of outstanding proceeds, a fee, or another payment from a consumer, including a voluntary tip, gratuity, or other donation, from a consumer's account at a depository institution, including through an electronic funds transfer, the provider must:

(A)  comply with applicable provisions of and regulations adopted under the federal Electronic Fund Transfer Act (15 U.S.C. Section 1693 et seq.); and

(B)  unless the payment sought by the provider was incurred by the consumer using fraudulent or unlawful means, reimburse the consumer for the full amount of any overdraft or non-sufficient funds fees imposed on the consumer by the consumer's depository institution if the provider attempts to seek any payment from the consumer on a date before, or in a different amount from, the date or amount disclosed to the consumer for that payment;

(7)  the provider is required to comply with all local, state, and federal privacy and information security laws; and

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

(A)  must clearly and conspicuously disclose to the consumer immediately before each transaction that the tip, gratuity, or donation is voluntary and may be set to zero by the consumer;

(B)  must clearly and conspicuously disclose in the contract and other service contracts with consumers that any tip, gratuity, or donation from a consumer to a provider is voluntary and 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 a consumer pays any tip, gratuity, or donation or on the size of any tip, gratuity, or donation;

(C)  may not mislead or deceive the consumer regarding the voluntary nature of the tip, gratuity, or donation; and

(D)  may not represent that the tip, gratuity, or donation will benefit a specific individual.

Sec. 398.252.  ISSUANCE OF CONTRACT. An earned wage access services provider shall make available to the consumer a copy of the completed contract, when receipt of the document is acknowledged by the consumer.

SUBCHAPTER G. PROHIBITIONS

Sec. 398.301.  PROHIBITED ACTS. (a) An earned wage access services provider may not, in connection with providing earned wage access services to consumers:

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

(2)  accept payment of outstanding proceeds, a fee, or a tip, gratuity, or other donation from a consumer through use of a credit card or charge card;

(3)  charge a late fee, deferral fee, interest, or other penalty or charge for failure to pay outstanding proceeds, a fee, or a tip, gratuity, or other donation;

(4)  report any information regarding the provider's inability to receive repayment of outstanding proceeds, or receive a fee or a tip, gratuity, or other donation, from a consumer to a consumer credit reporting agency or a debt collector;

(5)  require a consumer's credit report or credit score to determine the consumer's eligibility for earned wage access services; or

(6)  compel or attempt to compel payment by a consumer of outstanding proceeds, a fee, or a tip, gratuity, or other donation to the provider by:

(A)  repeatedly attempting to debit a consumer's depository institution account in violation of applicable payment system rules;

(B)  making outbound telephone calls to the consumer;

(C)  filing a suit against the consumer;

(D)  using a third party to pursue collection of the payment from the consumer on the provider's behalf; or

(E)  selling the outstanding amount to a third-party collector or debt buyer for purposes of collection from the consumer.

(b)  An earned wage access services provider is not precluded from using any of the methods described by Subsection (a)(6) to:

(1)  compel or attempt to compel repayment of outstanding amounts incurred by a consumer through fraudulent or unlawful means; or

(2)  pursue an employer for breach of the employer's contractual obligations to the provider.

Sec. 398.302.  FALSE OR MISLEADING REPRESENTATION OR STATEMENT. An earned wage access services provider may not make or use a false or misleading representation or statement to a consumer during the offer or provision of earned wage access services.

Sec. 398.303.  FRAUDULENT OR DECEPTIVE CONDUCT. An earned wage access services provider may not directly or indirectly engage in a fraudulent or deceptive act, practice, or course of business relating to the offer or provision of earned wage access services.

Sec. 398.304.  ADVERTISING SERVICES WITHOUT OBTAINING LICENSE PROHIBITED. An earned wage access services provider may not advertise its services if the provider has not obtained a license under this chapter.

Sec. 398.305.  WAIVER OF CONSUMER RIGHT PROHIBITED. An earned wage access services provider may not attempt to cause a consumer to waive a right under this chapter.

SUBCHAPTER H. ADMINISTRATION OF CHAPTER

Sec. 398.351.  ADOPTION OF RULES. (a) The Finance Commission of Texas may adopt rules to enforce this chapter.

(b)  The commissioner shall recommend proposed rules to the finance commission.

Sec. 398.352.  EXAMINATION OF PROVIDERS; ACCESS TO RECORDS. (a)  The commissioner or the commissioner's representative shall, at the times the commissioner considers necessary:

(1)  examine each place of business of each licensed provider;  and

(2)  investigate the licensed provider's transactions and records, including books, accounts, papers, and correspondence, to the extent the transactions and records pertain to the business regulated under this chapter.

(b)  The licensed provider shall:

(1)  give the commissioner or the commissioner's representative free access to the provider's office, place of business, files, safes, and vaults;  and

(2)  provide the commissioner electronic copies of books, accounts, papers, and correspondence as requested by the commissioner.

(c)  During an examination the commissioner or the commissioner's representative may administer oaths and examine any person under oath on any subject pertinent to a matter that the commissioner is authorized or required to consider, investigate, or secure information about under this chapter.

(d)  Information obtained under this section is confidential.

(e)  A licensed provider's violation of Subsection (b) is a ground for the suspension or revocation of the provider's license.

Sec. 398.353.  GENERAL INVESTIGATION. To discover a violation of this chapter or to obtain information required under this chapter, the commissioner or the commissioner's representative may investigate the records, including books, accounts, papers, and correspondence, of a licensed provider or other person who the commissioner has reasonable cause to believe is violating this chapter, regardless of whether the person claims to not be subject to this chapter.

Sec. 398.354.  CERTIFICATE; CERTIFIED DOCUMENT. On application by any person and on payment of any associated cost, the commissioner shall furnish under the commissioner's seal and signed by the commissioner or an assistant of the commissioner:

(1)  a certificate of good standing; or

(2)  a certified copy of a license, rule, or order.

Sec. 398.355.  TRANSCRIPT OF HEARING: PUBLIC. The transcript of a hearing held by the commissioner under this chapter is a public record.

Sec. 398.356.  APPOINTMENT OF AGENT. A licensed provider shall maintain on file with the commissioner the name and address of the provider's registered agent for service of process.

Sec. 398.357.  PAYMENT OF EXAMINATION COSTS AND ADMINISTRATION EXPENSES. A licensed provider shall pay to the commissioner an amount assessed by the commissioner to cover the direct and indirect cost of an examination under Section 398.352 and a proportionate share of general administrative expenses.

Sec. 398.358.  LICENSEE'S RECORDS. (a) A licensed provider shall maintain a record of each transaction conducted under this chapter as is necessary to enable the commissioner to determine whether the provider is complying with this chapter.

(b)  A licensed provider shall keep the record and make it available electronically or physically in this state, until the later of:

(1)  the fourth anniversary of the date of the transaction; or

(2)  the second anniversary of the date on which the final entry is made in the record.

(c)  The commissioner shall accept a licensed provider's system of records if the system discloses the information reasonably required under Subsection (a).

Sec. 398.359.  ANNUAL REPORT. (a) Each year, not later than May 1 or a later date set by the commissioner, a licensed provider shall file with the commissioner a report that contains relevant information required by the commissioner concerning the provider's business and operations in this state during the preceding calendar year. The report must include:

(1)  the total number of transactions in which the provider paid proceeds to a consumer;

(2)  the total number of consumers to whom the provider paid proceeds;

(3)  the total dollar amount of proceeds paid to all consumers;

(4)  the total dollar amount of fees, tips, gratuities, or donations the provider received from consumers;

(5)  the total number and dollar amount of transactions in which a payment of proceeds was made to a consumer for which the provider did not receive repayment of the outstanding proceeds;

(6)  the total number and dollar amount of transactions in which a payment of proceeds was made to a consumer for which the provider received partial repayment of the outstanding proceeds;

(7)  the total dollar amount of unpaid, outstanding proceeds attributable to transactions described by Subdivision (6);

(8)  the total number and dollar amount of transactions in which outstanding proceeds were repaid after the original, scheduled repayment date; and

(9)  the total number of written consumer complaints received by the provider in connection with the provision of earned wage access services and a list of the reason for each complaint, listed by frequency of reason for the complaint.

(b)  A report under this section must be:

(1)  under oath; and

(2)  in the form prescribed by the commissioner.

(c)  A report under this section is confidential.

(d)  Annually the commissioner shall prepare and publish a consolidated analysis and recapitulation of reports filed under this section.

SECTION 6.  Section 411.095(a), Government Code, is amended to read as follows:

(a)  The consumer credit commissioner is entitled to obtain from the department criminal history record information that relates to a person who is:

(1)  an applicant for or holder of a license or registration under Chapter 180, 342, 347, 348, 351, 353, 371, 393, [~~or~~] 394, or 398, Finance Code;

(2)  an employee of or volunteer with the Office of Consumer Credit Commissioner;

(3)  an applicant for employment with the Office of Consumer Credit Commissioner; or

(4)  a contractor or subcontractor of the Office of Consumer Credit Commissioner.

SECTION 7.  A person engaging in business as an earned wage access services provider on the effective date of this Act must obtain a license in accordance with Chapter 398, Finance Code, as added by this Act, not later than January 1, 2024.

SECTION 8.  Sections 398.201 and 398.251, Finance Code, as added by this Act, apply only to a contract for earned wage access services entered into on or after the effective date of this Act.

SECTION 9.  This Act takes effect September 1, 2023.