

By: Lambert

H.B. No. 3827

Substitute the following for H.B. No. 3827:

By: Capriglione

C.S.H.B. No. 3827

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of earned wage access services;
3 requiring an occupational license; providing an administrative
4 penalty; imposing fees.

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

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

8 Sec. 14.107. FEES. (a) The finance commission shall
9 establish reasonable and necessary fees for carrying out the
10 commissioner's powers and duties under this chapter, Title 4,
11 Chapter 393 with respect to a credit access business, and Chapters
12 371, 392, ~~and~~ 394, and 398 and under Chapters 51, 302, 601, and
13 621, Business & Commerce Code.

14 (b) The finance commission by rule shall set the fees for
15 licensing and examination, as applicable, under Chapter 393 with
16 respect to a credit access business or Chapter 342, 347, 348, 351,
17 353, ~~or~~ 371, or 398 at amounts or rates necessary to recover the
18 costs of administering those chapters. The rules may provide that
19 the amount of a fee charged to a license holder is based on the
20 volume of the license holder's regulated business and other key
21 factors. The commissioner may provide for collection of a single
22 fee for the term of the license from a person licensed under
23 Subchapter G of Chapter 393 or Chapter 342, 347, 348, 351, or
24 371. The fee must include amounts due for both licensing and

1 examination.

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

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

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

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

- 14 (1) this chapter;
- 15 (2) Subtitles B and C, Title 4;
- 16 (3) Chapter 393 with respect to a credit access
17 business;
- 18 (4) Chapter 394;
- 19 (5) Chapter 398; and
- 20 (6) (5) ~~(5)~~ Subchapter B, Chapter 1956, Occupations
21 Code.

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

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

1 398, or Subtitle B, Title 4.

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

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

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

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

12 (4) [~~3~~] a person who violates or causes a violation
13 of Subchapter B, Chapter 1956, Occupations Code, or a rule adopted
14 under that subchapter.

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

17 CHAPTER 398. EARNED WAGE ACCESS SERVICES

18 SUBCHAPTER A. GENERAL PROVISIONS

19 Sec. 398.001. DEFINITIONS. In this chapter:

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

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

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

27 (4) "Earned but unpaid income" means salary, wages,

1 compensation, or income that:

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

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

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

10 (A) consumer-directed wage access services;

11 (B) employer-integrated wage access services; or

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

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

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

27 (8) "Employer-integrated wage access services" means

1 delivering to consumers access to earned but unpaid income that is
2 based on employment, income, and attendance data obtained directly
3 or indirectly from an employer.

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

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

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

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

17 Sec. 398.002. APPLICABILITY OF AND CONFLICT WITH OTHER LAW.

18 (a) A person licensed under this chapter is not subject to the
19 provisions of Chapter 151 or Title 4 of this code with respect to
20 earned wage access services offered or provided by the person.

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

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

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

27 LICENSE

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

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

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

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

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

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

17 (1) be under oath;

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

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

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

25 (b) On the filing of one or more license applications, the
26 applicant shall pay to the commissioner an investigation fee of
27 \$200.

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

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

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

9 (2) satisfactory to the commissioner; and

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

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

15 (c) The bond must be conditioned on:

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

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

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

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

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

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

7 (A) command the confidence of the public; and

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

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

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

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

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

27 Sec. 398.056. DISPOSITION OF FEES ON DENIAL OF APPLICATION.

1 If the commissioner denies the application, the commissioner shall
2 retain the investigation fee and shall return to the applicant the
3 license fee submitted with the application.

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

7 SUBCHAPTER C. LICENSE

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

10 (1) the name of the license holder; and

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

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

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

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

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

1 \$25,000.

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

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

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

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

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

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

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

27 Sec. 398.108. CORPORATE CHARTER FORFEITURE. (a) A license

1 holder who violates this chapter is subject to revocation of the
2 holder's license and, if the license holder is a corporation,
3 forfeiture of the corporation's charter.

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

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

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

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

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

1 before the revocation, suspension, or surrender.

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

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

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

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

14 SUBCHAPTER D. LIMITING LIABILITY BY LATE LICENSURE

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

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

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

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

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

27 (2) is renewed not later than the 180th day after its

1 expiration date.

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

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

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

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

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

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

23 SUBCHAPTER E. DISCLOSURE STATEMENT

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

1 (1) may be in written or electronic form;

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

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

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

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

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

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

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

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

1 SUBCHAPTER F. CONTRACT FOR SERVICES

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

6 (1) be dated;

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

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

11 (b) Each contract must disclose that:

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

15 (2) fee obligations are subject to the limitations on
16 compelling or attempting to compel repayment under Section
17 398.301(a)(6);

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

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

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

27 (6) if a provider seeks repayment of outstanding

1 proceeds, a fee, or another payment from a consumer, including a
2 voluntary tip, gratuity, or other donation, from a consumer's
3 account at a depository institution, including through an
4 electronic funds transfer, the provider must:

5 (A) comply with applicable provisions of and
6 regulations adopted under the federal Electronic Fund Transfer Act
7 (15 U.S.C. Section 1693 et seq.); and

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

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

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

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

23 (B) must clearly and conspicuously disclose in
24 the contract and other service contracts with consumers that any
25 tip, gratuity, or donation from a consumer to a provider is
26 voluntary and the offering of earned wage access services,
27 including the amount of proceeds a consumer is eligible to request

1 and the frequency with which proceeds are provided to a consumer, is
2 not contingent on whether a consumer pays any tip, gratuity, or
3 donation or on the size of any tip, gratuity, or donation;

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

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

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

13 SUBCHAPTER G. PROHIBITIONS

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

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

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

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

26 (4) report any information regarding the provider's
27 inability to receive repayment of outstanding proceeds, or receive

1 a fee or a tip, gratuity, or other donation, from a consumer to a
2 consumer credit reporting agency or a debt collector;

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

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

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

12 (B) making outbound telephone calls to the
13 consumer;

14 (C) filing a suit against the consumer;

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

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

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

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

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

27 Sec. 398.302. FALSE OR MISLEADING REPRESENTATION OR

1 STATEMENT. An earned wage access services provider may not make or
2 use a false or misleading representation or statement to a consumer
3 during the offer or provision of earned wage access services.

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

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

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

15 SUBCHAPTER H. ADMINISTRATION OF CHAPTER

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

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

20 Sec. 398.352. EXAMINATION OF PROVIDERS; ACCESS TO RECORDS.

21 (a) The commissioner or the commissioner's representative shall,
22 at the times the commissioner considers necessary:

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

25 (2) investigate the licensed provider's transactions
26 and records, including books, accounts, papers, and
27 correspondence, to the extent the transactions and records pertain

1 to the business regulated under this chapter.

2 (b) The licensed provider shall:

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

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

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

14 (d) Information obtained under this section is
15 confidential.

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

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

26 Sec. 398.354. CERTIFICATE; CERTIFIED DOCUMENT. On
27 application by any person and on payment of any associated cost, the

1 commissioner shall furnish under the commissioner's seal and signed
2 by the commissioner or an assistant of the commissioner:

3 (1) a certificate of good standing; or

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

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

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

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

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

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

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

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

27 (c) The commissioner shall accept a licensed provider's

1 system of records if the system discloses the information
2 reasonably required under Subsection (a).

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

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

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

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

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

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

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

23 (7) the total dollar amount of unpaid, outstanding
24 proceeds attributable to transactions described by Subdivision
25 (6);

26 (8) the total number and dollar amount of transactions
27 in which outstanding proceeds were repaid after the original,

1 scheduled repayment date; and

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

6 (b) A report under this section must be:

7 (1) under oath; and

8 (2) in the form prescribed by the commissioner.

9 (c) A report under this section is confidential.

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

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

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

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

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

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

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

27 SECTION 7. A person engaging in business as an earned wage

1 access services provider on the effective date of this Act must
2 obtain a license in accordance with Chapter 398, Finance Code, as
3 added by this Act, not later than January 1, 2024.

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

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