

By: Lambert

H.B. No. 2043

Substitute the following for H.B. No. 2043:

By: Bumgarner

C.S.H.B. No. 2043

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of earned wage access services;  
requiring an occupational registration; imposing fees.

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

SECTION 1. Subtitle B, Title 4, Finance Code, is amended by  
adding Chapter 355 to read as follows:

CHAPTER 355. EARNED WAGE ACCESS SERVICES

Sec. 355.001. SHORT TITLE. This chapter shall be known and  
may be cited as the "Texas Earned Wage Access Services Act."

Sec. 355.002. DEFINITIONS. In this chapter:

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

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

(3) "Control" means the power to:

(A) directly or indirectly vote at least 25  
percent or more of the outstanding voting shares or voting  
interests of a provider or person in control of a provider;

(B) elect or appoint a majority of key  
individuals; or

(C) directly or indirectly exercise a  
controlling influence over the management or policies of a provider  
or person in control of a provider.

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

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

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

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

11           (A) consumer-directed wage access services;

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

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

15           (6) "Earned wage access services provider" or  
16 "provider" means a person who is in the business of offering and  
17 providing earned wage access services to consumers. The term does  
18 not include:

19           (A) an entity that offers or provides earned wage  
20 access services and reports to a consumer reporting agency  
21 described by Section 603(p), Fair Credit Reporting Act (15 U.S.C.  
22 Section 1681a(p)), a consumer's payment or nonpayment of:

23                   (i) outstanding proceeds of the earned wage  
24 access services; or

25                   (ii) fees, voluntary tips, gratuities, or  
26 other donations in connection with the earned wage access services;

27           (B) a service provider, including a payroll

1 service provider, whose role includes verification of the earned  
2 but unpaid income but who is not contractually obligated to fund  
3 proceeds delivered to a consumer as part of an earned wage access  
4 service; or

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

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

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

22 (9) "Fee" includes an amount charged by a provider for  
23 expedited delivery or other delivery of proceeds to a consumer and  
24 for a subscription or membership fee charged by a provider for a  
25 bona fide group of services that includes earned wage access  
26 services or an amount paid by an employer to a provider on a  
27 consumer's behalf that entitles the consumer to receive proceeds at

1 reduced or no cost to the consumer. The term does not include a  
2 voluntary tip, gratuity, or donation paid to the provider.

3 (10) "Key individual" means an individual who is  
4 ultimately responsible for establishing or directing policies and  
5 procedures of a provider, including an executive officer, manager,  
6 director, or trustee.

7 (11) "Outstanding proceeds" means proceeds remitted  
8 to a consumer by a provider that have not been repaid to that  
9 provider.

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

12 Sec. 355.003. DETERMINATION OF CONSUMER'S RESIDENCE. A  
13 provider may use the mailing address or state of residence provided  
14 by a consumer to determine the consumer's state of residence for  
15 purposes of this chapter.

16 Sec. 355.004. APPLICABILITY OF OTHER LAW. A provider is not  
17 considered to be engaging in lending, money transmission, or debt  
18 collection in this state, or in violation of the laws of this state  
19 governing deductions from wages or the purchase, sale, or  
20 assignment of or an order for earned but unpaid income, if that  
21 provider complies with the requirements of Sections 355.008 and  
22 355.009.

23 Sec. 355.005. FINANCIAL STATEMENTS. (a) A provider shall,  
24 not later than the 30th business day after the date of a request  
25 from the commissioner, file with the commissioner:

26 (1) a financial statement, audited or unaudited, dated  
27 as of the last day of the provider's fiscal year that ended in the

1 immediately preceding calendar year; and

2 (2) any other information as the commissioner may  
3 reasonably require.

4 (b) An audited financial statement filed with the  
5 commissioner under Subsection (a)(1) must be prepared:

6 (1) in accordance with United States generally  
7 accepted accounting principles; and

8 (2) by an independent certified public accountant or  
9 independent public accountant who is satisfactory to the  
10 commissioner.

11 (c) An audited financial statement filed with the  
12 commissioner under Subsection (a)(1) must include or be accompanied  
13 by a certificate of opinion of the independent certified public  
14 accountant or independent public accountant that is satisfactory in  
15 form and content to the commissioner. If the certificate of opinion  
16 is qualified, the commissioner may order the provider to take any  
17 action the commissioner finds necessary to enable the independent  
18 certified public accountant or independent public accountant to  
19 remove the qualification.

20 Sec. 355.006. REPORTS OF CERTAIN EVENTS. (a) A provider  
21 shall file a report with the commissioner not later than the first  
22 business day after the provider has reason to know of:

23 (1) the filing of a petition by or against the provider  
24 under the United States Bankruptcy Code (11 U.S.C. Sections  
25 101-1532) for bankruptcy or reorganization;

26 (2) the filing of a petition by or against the provider  
27 for receivership, the commencement of any other judicial or

1 administrative proceeding for the provider's dissolution or  
2 reorganization, or the making of a general assignment for the  
3 benefit of the provider's creditors; or

4 (3) the commencement of a proceeding to revoke or  
5 suspend the provider's license in a state or country in which the  
6 provider engages in or is licensed to engage in earned wage access  
7 services.

8 (b) A provider shall file a report with the commissioner not  
9 later than the third business day after the provider has reason to  
10 know of the occurrence of a felony charge or conviction of:

11 (1) the provider or a key individual; or

12 (2) a person in control of the provider.

13 Sec. 355.007. TIMELY TRANSMISSION. (a) A provider who  
14 receives the proceeds of a paycheck of a consumer for forwarding all  
15 or a portion of the proceeds to the consumer shall forward the  
16 proceeds in accordance with the terms of the agreement between the  
17 provider and the consumer unless the provider has a reasonable  
18 belief or a reasonable basis to believe of the existence of fraud or  
19 that a crime or violation of law, rule, or regulation has occurred,  
20 is occurring, or may occur.

21 (b) If a provider fails to forward the proceeds of a  
22 paycheck received for forwarding in accordance with this section,  
23 the provider must respond to inquiries by the consumer with the  
24 reason for the failure unless providing the reason would violate a  
25 local, state, or federal law.

26 Sec. 355.008. REQUIREMENTS. (a) Before entering into an  
27 agreement with a consumer for the provision of earned wage access

1 services, an earned wage access services provider shall provide the  
2 consumer with a disclosure that:

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

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

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

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

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

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

18 (c) At the time that a provider charges a fee or solicits a  
19 tip, gratuity, or donation from a consumer, the provider is  
20 required to offer the consumer at least one reasonable option to  
21 obtain proceeds at no cost to the consumer and clearly explain how  
22 to elect that no-cost option. The no-cost option required by this  
23 subsection must require the provider to initiate transmission of  
24 the proceeds to the consumer not later than one business day after  
25 the date the consumer makes the request.

26 (d) Each contract for the provision of earned wage access  
27 services to a consumer by a provider may be in writing or electronic

1 form and must:

2 (1) be dated;

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

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

7 (e) Each contract must disclose that:

8 (1) fee obligations are subject to the limitations on  
9 compelling or attempting to compel repayment under Section  
10 355.009(a)(5);

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

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

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

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

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

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

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

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

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

16           (B) must set the amount of any default tip,  
17 gratuity, or donation at zero;

18           (C) must clearly and conspicuously disclose in  
19 the contract and other service contracts with consumers that any  
20 tip, gratuity, or donation from a consumer to a provider is  
21 voluntary and the offering of earned wage access services,  
22 including the amount of proceeds a consumer is eligible to request  
23 and the frequency with which proceeds are provided to a consumer, is  
24 not contingent on whether a consumer pays any tip, gratuity, or  
25 donation or on the size of any tip, gratuity, or donation;

26           (D) may not mislead or deceive the consumer  
27 regarding the voluntary nature of the tip, gratuity, or donation;

1 and

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

4 (f) An earned wage access services provider shall make  
5 available to the consumer a copy of the completed contract, when  
6 receipt of the document is acknowledged by the consumer.

7 Sec. 355.009. PROHIBITIONS. (a) An earned wage access  
8 services provider may not, in connection with providing earned wage  
9 access services to consumers:

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

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

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

19 (4) require a consumer's credit score from a credit  
20 report to determine the consumer's eligibility for earned wage  
21 access services;

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

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

1                   (B) making outbound telephone calls to the  
2 consumer;

3                   (C) filing a suit against the consumer;

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

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

9                   (6) make or use a false or misleading representation  
10 or statement to a consumer during the offer or provision of earned  
11 wage access services; or

12                   (7) directly or indirectly engage in a fraudulent or  
13 deceptive act, practice, or course of business relating to the  
14 offer or provision of earned wage access services.

15                   (b) An earned wage access services provider is not precluded  
16 from using any of the methods described by Subsection (a)(5) to:

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

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

22                   Sec. 355.010. REGISTRATION REQUIRED; FEES. (a) Except as  
23 provided by Subsection (b), a person must hold a registration under  
24 this chapter to engage in the business of offering or providing  
25 earned wage access services in this state.

26                   (b) The following persons are not required to obtain a  
27 registration under this chapter:

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

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

7           (c) The commissioner may prescribe the form for an  
8 application for registration under this chapter. An application  
9 must contain the information required by the commissioner in order  
10 to determine an applicant's eligibility.

11           (d) On the filing of each registration application, the  
12 applicant shall pay to the commissioner an investigation fee and a  
13 registration fee in amounts determined as provided by Section  
14 [14.107](#).

15           (e) The commissioner shall approve the application and  
16 issue to the applicant a registration under this chapter if the  
17 commissioner finds that:

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

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

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

24           (2) the applicant has obtained the surety bond  
25 required under Section 355.012.

26           (f) If the commissioner does not find the eligibility  
27 requirements of Subsection (e) are met, the commissioner shall

1 notify the applicant.

2 (g) If an applicant requests a hearing on the application  
3 not later than the 30th day after the date of notification under  
4 Subsection (f), the applicant is entitled to a hearing on the denial  
5 of the application.

6 (h) A registration issued under this chapter is valid for  
7 the period prescribed by finance commission rule adopted under  
8 Section 14.112.

9 (i) In order to maintain an active registration, a  
10 registration holder must pay to the commissioner the following  
11 amount determined as provided by Section 14.107:

12 (1) an assessment to cover costs associated with  
13 registration; and

14 (2) any direct and indirect costs of examination.

15 (j) A person who is required to hold a registration under  
16 this chapter must hold a registration for each office at which the  
17 person conducts business under this chapter.

18 Sec. 355.011. REGISTRATION SUSPENSION, REVOCATION, OR  
19 REFUSAL TO RENEW. (a) After notice and opportunity for a hearing,  
20 the commissioner may suspend or revoke a registration if the  
21 commissioner finds that:

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

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

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

5           (b) The commissioner may refuse to renew the registration of  
6 a person who fails to comply with an order issued by the  
7 commissioner to enforce this chapter.

8           Sec. 355.012. SURETY BOND. (a) A provider must maintain a  
9 surety bond in the amount of \$200,000.

10           (b) The surety bond must be in favor of this state for the  
11 use of this state and the use of a person damaged by a violation of  
12 this chapter.

13           (c) The surety bond must be issued by a surety company  
14 qualified to do business as a surety in this state.

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

18           Sec. 355.013. EXAMINATION OF PROVIDERS; ACCESS TO RECORDS.

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

21                   (1) examine each place of business of each provider;  
22 and

23                   (2) investigate the provider's transactions and  
24 records.

25           (b) A provider shall:

26                   (1) give the commissioner or the commissioner's  
27 representative free access to the provider's place of business and

1 records; and

2 (2) allow the commissioner or the commissioner's  
3 representative to make a copy of a record that may be investigated  
4 under Subsection (a)(2).

5 Sec. 355.014. PROVIDER'S RECORDS. (a) A provider shall  
6 maintain a record of each transaction conducted under this chapter  
7 as is necessary to enable the commissioner to determine whether the  
8 provider is complying with this chapter.

9 (b) A provider shall keep the record until the later of:

10 (1) the fourth anniversary of the date of the contract  
11 for earned wage access services; or

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

14 Sec. 355.015. ANNUAL REPORT. (a) Each year, a provider  
15 shall file with the commissioner a report that contains relevant  
16 information required by the commissioner concerning the provider's  
17 business in this state during the preceding calendar year.

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

19 (1) in the form prescribed by the commissioner; and

20 (2) filed not later than the deadline set by the  
21 commissioner.

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

23 Sec. 355.016. ADOPTION OF RULES. (a) The finance  
24 commission may adopt rules to enforce this chapter.

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

27 SECTION 2. Section [411.095](#)(a), Government Code, is amended

1 to read as follows:

2 (a) The consumer credit commissioner is entitled to obtain  
3 criminal history record information as provided by  
4 Subsection (a-1) that relates to a person who is:

5 (1) an applicant for or holder of a license or  
6 registration under Chapter 180, 342, 347, 348, 351, 353, 355, 371,  
7 393, or 394, Finance Code;

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

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

12 (4) a contractor or subcontractor of the Office of  
13 Consumer Credit Commissioner; or

14 (5) an officer, director, owner, or employee of a  
15 person described by Subdivision (1) or another person having a  
16 substantial relationship with that person under Chapter 180, 342,  
17 347, 348, 351, 353, 355, 371, 393, or 394, Finance Code.

18 SECTION 3. A person engaging in business as an earned wage  
19 access services provider on the effective date of this Act must  
20 obtain a registration in accordance with Chapter 355, Finance Code,  
21 as added by this Act, not later than January 1, 2026.

22 SECTION 4. Sections 355.008 and 355.009, Finance Code, as  
23 added by this Act, apply only to a contract for earned wage access  
24 services entered into on or after the effective date of this Act.

25 SECTION 5. This Act takes effect September 1, 2025.